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Title 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board—Federal Aviation Agency

SUBCHAPTER B—ECONOMIC REGULATIONS

[Reg. ER-263]

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

Applicability of Part

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of March 1959.

Part 207 of the Economic Regulations of the Board prescribes regulations governing the conduct of charter trips and special services and, by its present terms, is applicable to all air carriers (other than Alaskan air carriers) who hold currently effective certificates of public convenience and necessity.

Board Order E-13436, effective January 29, 1959, issued in the Large Irregular Air Carrier Investigation, Docket 5132 et al, provides authority for the issuance of temporary certificates of public convenience and necessity to a new class of supplemental air carriers, and authorizes the holders thereof to engage in charter operations as defined therein.

It is the intention of the Board that each holder of a certificate issued pursuant to Order E-13436 be governed in the conduct of the charter operations authorized solely by the terms, conditions and limitations specified in that order and the certificate issued. While almost all persons receiving certificate authority under Order E-13436 have been operating as supplemental air carriers under Order E-9744, the issuance of certificates pursuant to Order E-13436 may give rise to some misunderstanding of the Board's intent unless the present applicability section of Part 207 is amended to exclude therefrom certificated supplemental air carriers.

Accordingly, the Board is making an appropriate, clarifying amendment to the applicability section of Part 207.

Since this amendment is clarifying in nature and imposes no additional burden on any person, the Board finds that notice and public procedure hereon are unnecessary and not in the public interest.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 207 of the Economic Regulations as amended (14 CFR Part 207) effective March 30, 1959, by deleting the language within the parentheses in § 207.2 and adding in lieu thereof the following: "other than Alaskan air carriers and air carriers certificated for supplemental air service".

(Sec. 204(a), 72 Stat. 743; 49 U.S.C. 1324. Interpret or apply sec. 401, 72 Stat. 754; 49 U.S.C. 1371)

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART, *Acting Secretary.*

[F.R. Doc. 59-2608; Filed, Mar. 26, 1959; 8:50 a.m.]

[Reg. ER-264]

PART 249—PRESERVATION OF AIR CARRIER ACCOUNTS, RECORDS AND MEMORANDA

Time for Preservation of Records by Supplemental Air Carriers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of March 1959.

In its decision in the Large Irregular Air Carrier Investigation, Docket No. 5132 et al., dated January 28, 1959, the Board adopted Order No. E-13436 authorizing certificated supplemental air service and defining the scope of such operating authority. The certificates are effective on March 30, 1959. Part 249 in its present form prescribes record retention requirements applicable to supplemental air carriers authorized by exemption under Order E-9744. Since these retention requirements are consistent with the record requirements applicable to certificated supplemental air carriers, they may be made applicable to such carriers without substantive change.

Since all persons who receive authority under Order E-13436 have already

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been subject to the record retention requirements for supplemental air carriers or have applied for operating authority as supplemental air carriers with knowledge of these retention requirements and without objecting thereto, this amendment does not impose any new obligation on any person. The Board therefore finds that notice and public proceedings hereon are unnecessary and not in the public interest.

Accordingly, the Board hereby amends Part 249 of the Economic Regulations, as

amended, 14 CFR Part 249, effective March 30, 1959, by adding at the beginning of the first sentence of § 249.8 the words: "All certificated supplemental air carriers,"

(Sec. 204(a), 72 Stat. 743; 49 U.S.C. 1324. Interpret or apply sec. 407, 72 Stat. 766; 49 U.S.C. 1377)

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART, *Acting Secretary.*

[F.R. Doc. 59-2609; Filed, Mar. 26, 1959; 8:51 a.m.]

Chapter II—Federal Aviation Agency

[Amdt. 109]

PART 609—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Alterations

The new and revised standard instrument approach procedures appearing hereinafter are adopted to become effective and/or canceled when indicated in order to promote safety. The revised procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the revised procedures specify the complete procedure and indicate the changes to the existing procedures. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest, and therefore is not required.

Part 609 is amended as follows:

1. The low or medium frequency range procedures prescribed in § 609.100(a) are amended to read in part:

LFR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Perryville FM	PHX-LFR	Direct	4000	T-dn	300-1	300-1	200-½
Phoenix VOR	PHX-LFR	Direct	2700	C-dn	500-1	600-1	600-1½
Tolleson Int	PHX-LFR	Direct	2700	A-dn	800-2	800-2	800-2

Procedure turn S side E crs, 081° Outbnd, 261° Inbnd, 2700' within 10 miles. Beyond 10 miles NA. All turns to be made on S side of crs. High terrain to North.
Minimum altitude over facility on final approach crs, 2200'.
Crs and distance, facility to airport, 264—1.5.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.5 miles, climb to 4000' on W crs within 20 miles.
Alternate Missed Approach: When directed by ATC, climb straight ahead to 2700', turn right and return to LFR at 4000'.
CAUTION: Hills and tower 2905' 6 miles SSW of airport.

City, Phoenix; State, Ariz.; Airport Name, Sky Harbor; Elev., 1124'; Fac. Class, SBMRAZ; Ident., PHX; Procedure No. 1, Amdt. 10; Eff. Date, 11 Apr. 59; Sup. Amdt. No. 9; Dated, 17 Aug. 57

Roseville Int	SAC-LFR	Direct	1600	T-dn	300-1	300-1	200-½
Galt Int	SAC-LFR	Direct	1200	C-dn	500-1	600-1	600-1½
Rio Int	SAC-LFR	Direct	1200	A-dn	800-2	800-2	800-2
Clarksburg FM	SAC-LFR (Final)	Direct	700				

Procedure turn E side SW crs, 199° Outbnd, 019° Inbnd, 1200' within 10 miles. NA beyond Clarksburg FM.
Minimum altitude over facility on final approach crs, 700'.
Crs and distance, facility to airport, 028—1.5.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.5 miles, climb to 2500' on NE crs within 20 miles.
NOTE: Alternate missed approach procedure when directed by ATC: Within 1.5 miles, climb straight ahead to 500' and make climbing left turn to 2000' on track of 325° from SAC LFR within 20 miles.

City, Sacramento; State, Calif.; Airport Name, Municipal; Elev., 21'; Fac. Class, SBMRAZ; Ident., DTV; Procedure No. 1, Amdt. 7; Eff. Date, 11 Apr. 59; Sup. Amdt. No. 6; Dated, 7 Dec. 55

2. The automatic direction finding procedures prescribed in § 609.100(b) are amended to read in part:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Akron LFR	LOM	Direct	2500	T-dn	300-1	300-1	200-½
Navarre VOR	LOM	Direct	2000	C-dn	400-1	500-1	500-1½
		Final		S-dn-I	400-1	400-1	400-1
Int. of Navarre R-321° and 090° brng to LOM.	LOM	Direct	2500	A-dn	800-2	800-2	800-2
Int. of Navarre R-281° and 061° brng to LOM.	LOM	Direct	2500				

Procedure turn E side of crs 186° Outbnd, 006° Inbnd, 2500' within 10 miles.
Minimum altitude over facility on final approach 2000'.
Course and distance, facility to airport 3.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.8 miles after passing LOM climb to 2500' on heading of 045° to E crs of Akron LFR.
Alternate Missed Approach: When directed by ATC, make a right climbing turn and return to LOM at 2500'.

City, Akron; State, Ohio; Airport Name, Akron-Canton; Elev., 1228'; Fac. Class, LOM; Ident., CA; Procedure No. 1, Amdt. 10; Eff. Date, 11 Apr. 59; Sup. Amdt. No. 9 (ADF Portion of Comb. ILS-ADF); Dated, 18 Aug. 56

ADF STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
PROCEDURE CANCELLED EFFECTIVE APRIL 11, 1959.							
City, Oxnard; State, Calif.; Airport Name, Oxnard-Ventura County; Elev., 43'; Fac. Class, SRAWZ; Ident., CAV; Procedure No. 1, Amdt. 5; Eff. Date, 12 Mar. 55; Sup. Amdt. No. 4; Dated, 1 Sept. 54							
Stratus on Top Approach Procedure—Day only. Must be on Top with Tops not above 2000' MSL				T-d	300-1	300-1	300-1
				C-d	600-1	600-1½	600-1½
				A-d	900-3	900-3	900-3

Procedure turn—None (Aircraft to arrive over CAV on top and descent to airport on final approach).
Minimum altitude over facility on final approach crs, 1500'.
Crs and distance, facility to airport, 261—5.5.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.5 mi, climb to 3000' or on top, on Outbnd crs of 261° within 20 mi of LFR.

City, Oxnard; State, Calif.; Airport Name, Oxnard-Ventura County; Elev. 43'; Fac. Class, SRAWZ; Ident., CAV; Procedure No. 1, Amdt. 6; Eff. Date, 11 Apr. 59; Sup. Amdt. No. 1, Proc. 2, Dated, 19 Oct. 57; also Sup. Amdt. No. 5, Proc. 1, Dated, 12 Mar. 55

SAC LFR	LOM	Direct	1200	T-dn	300-1	300-1	200-½
SAC VOR	LOM	Direct	1200	C-dn	500-1	500-1	600-1½
Travis LFR	LOM	Direct	1200	S-dn-Ry 2	*400-1	500-1	600-1
Clarksburg FM	LOM	Direct	1200	A-dn	800-2	800-2	800-2
Galt Int	LOM	Direct	1200				
Isleton Int	LOM	Direct	1200				
Roseville Int	LOM	Direct	1600				

*Maintain 500' until past Sacramento LFR inbnd on final.
Procedure turn S side of crs 196° outbnd, 016° inbnd. 1200' within 6 mi. NA beyond Clarksburg FM.
Minimum altitude over facility on final approach crs 1200'.
Course and distance, facility to airport 4.0.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.0 miles of LOM climb to 2500' on NE crs of Sacramento LFR or on R-023° from Sacramento VOR within 20 miles.
Alternate Missed Approach Procedure: When directed by ATC, within 1.5 miles of SAC LF/Range, climb straight ahead to 500', make a climbing left turn to 2000' on a track of 323° from Sacramento LF/Range within 20 miles.
CAUTION: 203' MSL Towers between LOM and LFR.

City, Sacramento; State, Calif.; Airport Name, Municipal; Elev., 21'; Fac. Class, LOM; Ident., SA; Procedure No. 1, Amdt. 5; Eff. Date, 11 Apr. 59; Sup. Amdt. No. 4 (ADF Portion of Comb. ILS-ADF); Dated, 7 Jan. 56

3. The very high frequency omnirange (VOR) procedures prescribed in § 609.100(c) are amended to read in part:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
LAN VOR	Int*	Direct	2400	T-dn	300-1	300-1	200-½
LAN LFR	Int*	Direct	2000	C-dn	400-1	500-1	500-1½
				S-dn-24	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

*Int R-054 LAN-VOR and NW crs LAN-LFR.
Procedure turn N side crs, 054° Outbnd, 234° Inbnd, 2000' within 10 miles NE of Int*.
Minimum altitude over Int* on final approach crs, 1500'.
Crs and distance, Int* to airport, 234°—2.1 mi.
If visual contact not established upon descent to authorized landing minimums, or if landing not accomplished within 2.1 miles, climb to 2200' proceed to Lansing VOR on R-054.
NOTE: Procedure authorized if aircraft is equipped with VOR and LF receivers.

City, Lansing; State, Mich.; Airport Name, Capital City; Elev., 859'; Fac. Class, BVOR; Ident., LAN; Procedure No. 2, Amdt. 2; Eff. Date, 11 Apr. 59; Sup. Amdt. No. 1; Dated, 7 Mar. 59

PHX LFR	PHX VOR	Direct	2700	T-dn	300-1	300-1	200-½
Perryville FM/Int	Airtopia Fix* (Final)	Direct	3000	C-dn	800-1	800-1	800-1½
				A-dn	1000-2	1000-2	1000-2

*PHX R-258 and OZG R-326
Procedure turn S side of crs, 258° Outbnd, 078° Inbnd, 4000' within 10 mi of Airtopia Fix*.
Minimum altitude over #Airtopia Fix* on final approach crs, 3000'.
#When Airtopia Fix* not received, descent below 3000' NA.
Crs and distance, Airtopia Fix* to airport, 078°—6.0 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.0 mi of Airtopia Fix, climb to 2700' on R-080 within 10 mi of VOR.
Alternate Missed Approach: When directed by ATC, climb straight ahead to 2700', turn right and return to PHX VOR at 4000'.
CAUTION: 4500' terrain 10 mi S of final approach crs.

City, Phoenix; State, Ariz.; Airport Name, Sky Harbor; Elev., 1124'; Fac. Class, BVOR; Ident., PHX; Procedure No. 2, Amdt 1; Eff. Date, 11 Apr. 59; Sup Amdt. No. Orig; Dated, 7 Mar. 59

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
FYV BMH	FYV BVOR	Direct	3000	T-dn	300-1	300-1	NA
				C-d	800-1	800-1½	NA
				C-n	800-2	800-2	NA
				S-d-1	800-1	800-1	NA
				S-n-1	800-2	800-2	NA
				A	NA	NA	NA

Procedure turn E side of final approach course—177° Outbnd; 357° Inbnd. 3000' within 10 mi. Beyond 10 mi. NA.
Minimum altitude over Facility on final approach 2500'.
Course and distance, facility to airport, 357°—7.1.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 7.1 mi turn right and climb to 2600' on 021 R FYV VOR within 20 mi.
NOTE: No weather service at airport. Air Carrier Use NA.

City, Rogers; State, Ark.; Airport Name, Municipal; Elev., 1360'; Fac. Class, BVOR; Ident., FYV; Procedure No. 1, Amdt. Orig.; Eff. Date, 11 Apr. 59

Clarksburg FM	SAC-VOR (Final)	Direct	1000	T-dn	300-1	300-1	200-1½
Sacramento ILS LMM	SAC-VOR	Direct	1200	C-dn	500-1	600-1	600-1½
Isleton Int	SAC-VOR	Direct	1200	S-dn* ry 2	400-1	500-1	500-1
Roseville Int	SAC-VOR	Direct	1600	A-dn	800-2	800-2	800-2

*Descent below 500' MSL not authorized until past SAC LFR on Final.
Procedure turn S side crs, 197° Outbnd, 017° Inbnd, 1200' within 6 miles. (NA beyond Clarksburg FM.)
Minimum altitude over facility on final approach crs, 1000'.
Crs and distance, facility to airport, 017—4.4.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.4 miles, climb to 2500 on R-023 within 20 miles of SAC-VOR.
NOTE: Alternate missed approach (when directed by ATC) within 4.4 miles, climb straight ahead to 500', make climbing left turn to 2000' on crs of 290° to intercept the 329° radial of SAC VOR within 20 miles.
CAUTION: 203' MSL Tower between SAC VOR and LFR.

City, Sacramento; State, Calif.; Airport Name, Municipal; Elev., 21'; Fac. Class, BVOR; Ident., SAC; Procedure No. 1, Amdt. 4; Eff. Date, 11 Apr. 59; Sup. Amdt. No. 3; Dated, 7 Jan. 56

HUF-BH	HUF-VOR	Direct	2000	T-dn	300-1	300-1	200-1½
				C-dn	400-1	500-1	500-1½
				S-dn-18	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn W side of crs, 360° Outbnd, 180° Inbnd, 1900' within 10 miles.
Minimum altitude over facility on final approach crs, 1400'.
Crs and distance, facility to airport, 180—2.9.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.9 miles, climb to 1900' on R-191 within 20 miles.

City, Terre Haute; State, Ind.; Airport Name, Hullman Field; Elev., 585'; Fac. Class, BVOR; Ident., HUF; Procedure No. 1, Amdt. 5; Eff. Date, 11 Apr. 59; Sup. Amdt. No. 4; Dated, 1 May 58

4. The terminal very high frequency omnirange (TerVOR) procedures prescribed in § 609.200 are amended to read in part:

TERMINAL VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Keesler LFR	GPT-TVOR	Direct	1300	T-dn	*300-1	*300-1	*200-1½
				S-dn-13	600-1	600-1	600-1
				C-dn	700-1	700-1	700-1½
				A-dn#	800-2	800-2	800-2

*400-1 T.O. minima required on Rwys. 17 and 22. 200-½ Absolute Minima For T.O. Rwys. 35-31.
#Alternate usage authorized for air carrier only.
Procedure turn W side of crs 320° Outbnd, 140° Inbnd; 1300' within 10 miles. Beyond 10 mi. NA.
Minimum altitude on final approach 600'. Brng and Dist break off point to Runway 13, 130—0.4. Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 miles turn left, climb to 1300' on R 320° within 20 miles.
NOTE: Weather and commmunication not available to General Public.
AIR CARRIER NOTE: Procedure may be authorized only for carriers having approval of their arrangement for communications and weather service at this airport.
CAUTION: 410 MSL tower—1.1 mi SSW of airport. Night Operation authorized on runways 17-35 and 13-31 only.

City, Gulfport; State, Miss.; Airport Name, Gulfport Municipal; Elev., 28'; Fac. Class, TVOR-13; Ident., GPT; Procedure No. 1, Amdt. Orig.; Eff. Date, 11 Apr. 59

TERMINAL VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Stinson Beach Int	SFO-TVOR	Direct	2500	T-dn	300-1	300-1	*200-½
Richmond VHF Int	SFO-TVOR	Direct	2500	C-dn	500-1	600-1	600-1½
AGW VOR	SFO-TVOR	Direct	2500	S-dn	400-1	400-1	400-1
OAK VOR	SFO-TVOR	Direct	2500	A-dn	800-2	800-2	800-2
Fremont FM-HW	SFO-TVOR	Direct	2500				
AGW VOR	SFO LOM (Final)	Direct	1700				

*300-1 required for take-off Rny 19 L-R.
No Procedure turn authorized. All necessary maneuvering and descent shall be accomplished in the SFO LOM holding pattern (one minute, left turns, 2000' min. Alt.); final appr crs: 101° Outbnd, 281° Inbnd.
Minimum altitude over facility on final approach crs, 400'.
Crs and distance, breakoff point to app end rny 28, 281° final approach crs parallel and between rnys 28 L-R.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 miles, climb to 3000' on R-287 within 20 miles.
NOTE: Circling minimums do not provide standard clearance W and SW of airport.

City, San Francisco; State, Calif.; Airport Name, International; Elev., 11'; Fac. Class, VOR; Ident., SFO; Procedure No. TerVOR-28L-R, Amdt. 3; Eff. Date, 11 Apr. 59; Sup. Amdt. No. 2; Dated, 5 Apr. 58

5. The instrument landing system procedures prescribed in § 609.400 are amended to read in part:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Akron LFR	LOM	Direct	2500	T-dn	300-1	300-1	200-½
Navarre VOR	LOM (Final)	Direct	2400	C-dn	400-1	500-1	500-1½
Int. of Navarre R-321° and 090° brng to LOM.	LOM	Direct	2500	S-dn-1*	200-½	200-½	200-½
Int. of Navarre R-231° and 061° brng to LOM.	LOM	Direct	2500	A-dn	600-2	600-2	600-2

*400-¾ required with glide slope inoperative.
Procedure turn E side S crs 186° Outbnd, 006° Inbnd, 2500' within 10 mi.
Minimum altitude at glide slope int inbnd: 2400'.
Altitude of glide slope and distance to approach end of runway at OM, 2410—3.8; at MM, 1450—0.7.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, climb to 2500' on N crs of Akron ILS, to Derby Int. Hold N on the N crs of Akron ILS, one minute, left turns.
Alternate: Climb to 2500' on N crs Akron ILS within 10 miles of airport or when directed by ATC, make a right climbing turn and return to LOM at 2500'.
MAJOR CHANGES: Transition amended to conform to revised airway structure.

City, Akron; State, Ohio; Airport Name, Akron-Canton: Elev., 1228'; Fac. Class and Ident., ILS-CAK; Procedure No. 1, Amdt. 10; Eff Date, 11 Apr. 59; Sup. Amdt. No. 9 (ILS Portion of Comb. ILS-ADF); Dated, 18 Aug. 56

Aden Int	North Int.*	Direct	8000	T-dn	300-1	300-1	200-½
Weiler Int	North Int. (Final)	Direct	7000	C-d	500-1	500-1	500-1½
Peralta Int	North Int	Direct	8000	C-n	500-2	500-2	500-2
South Int.**	North Int	Direct	8000	S-d-17	500-1	500-1	500-1
				S-n-17	500-2	500-2	500-2
				A-dn	800-2	800-2	800-2

*N crs ABQ ILS and R-044 ABQ VOR.
**S crs ABQ ILS and R-147 ABQ VOR.
Procedure turn W side of N crs 350° Outbnd, 170° Inbnd, 8000' within 10 mi of North Int.
Minimum altitude over North Int. on final approach—7000'.
Course and distance, North Int. to airport, 170°—6.0.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.0 miles after passing North Int., climb straight ahead to 7000' to ABQ LFR.
Alternate Missed Approaches: When directed by ATC, (1) climb to 7000' on S crs ABQ ILS localizer to ABQ LOM; (2) turn right, climb to 8000' on R-077 to ABQ VOR.
CAUTION: Terrain exceeding 8000' E of ILS localizer; all turns to be made W of crs.
NOTE: This procedure authorized only for aircraft equipped with ILS and VOR receivers.

City, Alburquerque; State, N. Mex.; Airport Name, Kirtland AFB/Mun.; Elev., 5352'; Fac. Class, ILS; Ident., IABQ; Procedure No. ILS-17, Amdt. Orig.; Eff. Date, 11 Apr. 59

Medford LFR	LOM	Direct	6000	T-dn	300-1	300-1	200-½
Medford VOR	LOM	Direct	6000	C-dn	1000-2	1000-2	1000-2
Tiller FM via crs 165	ILS N crs (Final)	Direct	6000	S-dn-14	200-½	200-½	200-½
				A-dn	1000-2	1000-2	1000-2

Procedure turn E side N crs 319 Outbnd, 139 Inbnd, 6000' within 10 mi of Evans Creek FM (nonstandard due to terrain).
Minimum altitude at glide slope int inbnd; 6000'.
Altitude of glide slope and distance to approach end of runway at OM, 2852—4.7; at MM, 1541—0.6.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, turn right, climb to 6000' on N crs ILS within 5 mi of LMM.

City, Medford; State, Oreg.; Airport Name, Medford; Elev., 1330'; Fac. Class, ILS; Ident., I-MFR; Procedure No. 1, Amdt. 3; Eff. Date, 11 Apr. 59; Sup. Amdt. No. 2; Dated, 29 June 57

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine more than 65 knots
					65 knots or less	More than 65 knots	
SAC LFR	LOM	Direct	1200	T-dn	300-1	300-1	200-½
SAC VOR	LOM	Direct	1200	C-dn	500-1	600-1	600-1½
Travis LFR	LOM	Direct	1200	S-dnry 2°, ILS	300-¾	300-¾	300-¾
Clarksburg FM (Final)	LOM	Direct	1200	A-dn, ILS	600-2	600-2	600-2
Galt Int	LOM	Direct	1200				
Isleton Int	LOM	Direct	1200				

SPECIAL NOTE: *If glide path is inoperative, 400-1 required and descent below 500' MSL not authorized until past SAC LFR inbnd on final.
Procedure turn S side of crs, 196° Outbnd, 016° Inbnd, 1200' within 6 miles. (NA beyond Clarksburg FM.)
Minimum altitude at G.S. int inbnd, 1200.
Altitude of G.S. and distance to approach end of rny at OM 1160—4.0, at MM 213—0.5.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 2500' on NE crs of SAC LFR or on R-023 from SAC VOR within 20 mi.
Alternate missed approach when directed by ATC: climb straight ahead to 500', make left climbing turn to 2000' on crs of 290° to intercept the 329° radial of SAC VOR within 20 miles.

City, Sacramento; State, Calif.; Airport Name, Municipal; Elev., 21'; Fac. Class, ILS; Ident., SAC; Procedure No. ILS-2, Amdt. 5; Eff. Date, 11 Apr. 59; Sup. Amdt. No. 4 (ILS portion of Comb. ILS-ADF); Dated, 7 Jan. 56

McClellan RBN	Perkins Int.*	Direct	1500	T-dn	300-1	300-1	200-½
Roseville VHF Int	Perkins Int.*	Direct	1500	C-dn	700-1	700-1	700-1½
Roseville LF Int	Perkins Int.*	Direct	1500	A-dn	800-2	800-2	800-2

*Intsxn Sacramento ILS NE crs and 348° bearing to MCC "H".
No procedure turn; transitions authorized are for straight-in approaches from the N or NE only. Final approach crs inbnd from Perkins Int. 196°.
No glide slope or markers. Alt. over Perkins Int. 1500' distance 6.2.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.2 mi of the Perkins Int., climb to 1200' and hold SW of the LOM in a one-minute right turn pattern, 196° outbnd, 016° inbnd.

City, Sacramento; State, Calif.; Airport Name, Sacramento; Elev., 21'; Fac. Class, ILS; Ident., SAC; Procedure No. ILS-20, Amdt. 3; Eff. Date, 11 Apr. 59; Sup. Amdt. No. 2; Dated, 23 May 56

6. The radar procedures prescribed in § 609.500 are amended to read in part:

RADAR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach, except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
All directions	Radar site	Within 25 mi	###1800				
				Precision approach			
				C-dn 4R	*500-1	600-1	600-1½
				S-dn 4R	200-½	200-½	200-½
				A-dn 4R	600-2	600-2	600-2
				Surveillance approach			
				T-dn%	300-1	300-1	200-1½
				S or Cdn**	700-1	700-1	700-1½
				C-dn***#	600-1	600-1	600-1½
				S-dn***#	600-1	600-1	600-1
				C-dn##	*500-1	600-1	600-1½
				S-dn##	500-1	500-1	500-1
				A-dn-All	800-2	800-2	800-2

###Except 2300 when more than 6 mi from airport between NW and SW crs Boston LFR.
#CAUTION: Standard clearance not provided over 370' stack SW of airport.
1349' TV tower 10.5 mi. W of airport.
*600-1 required when circling W of airport.
**4L, 4R, 15. ***22L, 22R. ##27, 33.
%Except where radar vectoring is used, and weather is 1000-3 or below, departures from Rny 27 make left or right turn as soon as practicable, and departures from Rnys 22 and 33 climb straight ahead to at least 1000' prior to proceeding toward 1349' WBZ-TV tower.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 1300' on the N crs of the Boston LFR within 8 mi. Alternate missed approach when requested by ATC: climb to 1500' on E crs of the Boston LFR within 10 mi.
MAJOR CHANGE: Deletes reference to runway visual range.

City, Boston; State, Mass; Airport Name, Logan; Elev., 19'; Fac. Class, Logan; Ident., Radar; Procedure No. 1, Amdt. 8; Eff. Date, 11 Apr. 59; Sup. Amdt. No. 7; Dated, 15 Feb. 58

These procedures shall become effective on the dates indicated on the procedures.

(Sec. 313(a) of the Federal Aviation Act of 1958, Act of August 23, 1958, 72 Stat. 752 (Pub. Law 85-726). Interpret or apply sec. 307; 72 Stat. 749-750)

Issued in Washington, D.C., on March 24, 1959.

E. R. QUESADA,
Administrator.

[F.R. Doc. 59-2621; Filed, Mar. 26, 1959; 8:52 a.m.]

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Valencia Orange Reg. 156]

PART 922—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 922.456 Valencia Orange Regulation 156.

(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 22, as amended (7 CFR Part 922), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said marketing agreement and order, as amended, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Committee held an open meeting during the past week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) *Order.* (1) During the period beginning at 12:01 a.m., P.s.t., March 29, 1959, and ending at 12:01 a.m., P.s.t., February 1, 1960, no handler shall handle any Valencia oranges, grown in District 1, which are of a size smaller than 2.32 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the oranges contained in any type container may measure smaller than 2.32 inches in diameter.

(2) As used in this section, "handle," "handler," and "District 1" shall have the same meaning as when used in the said marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c)

Dated: March 23, 1959.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 59-2587; Filed, Mar. 26, 1959; 8:48 a.m.]

PART 927—MILK IN NEW YORK-NEW JERSEY MILK MARKETING AREA

Order Amending Order

§ 927.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New York-New Jersey milk marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than April 1, 1959.

The provisions of the said order are known to handlers. The recommended decision of the Administrator of the Agricultural Marketing Service was issued December 17, 1958, and the decision of the Assistant Secretary containing all amendment provisions of this order, was issued February 9, 1959. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. The amendments adopted are necessary to coordinate the provisions of this order with those of the initial regulatory order for the Connecticut marketing area to become fully effective on the same date. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective April 1, 1959, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (See section 4(c), Administrative Procedure Act, 5 U.S.C. 1001 et seq.).

(c) *Determinations.* It is hereby found that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof the handling of milk in the New York-New Jersey milk marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

§ 927.6 [Amendment]

1. Amend § 927.6 (definition of producer) by adding the following: *"Provided,* That a dairy farmer who, if not a producer pursuant to this part, would be defined as a producer under another order issued pursuant to the Act shall not be a producer under this part if the milk received from all such dairy farmers at the plant is assigned to Class III, or is subject to payments at the rates

specified in § 927.83(b) (2), or is subject to payments at the rates specified in § 927.83(b) (1) and the milk is priced at the lowest class price under the other order."

§ 927.29 [Amendment]

2. Amend § 927.29 (temporary pool plants) by adding to the first sentence thereof the following proviso: *"Provided,* That no plant shall be a pool plant pursuant to this section (1) in any month in which it is a pool plant pursuant to provisions of Part 1019 of this chapter, or (2) in any of the months of December through June if it was a pool plant pursuant to provisions of Part 1019 of this chapter in each of the preceding months of July through November."

§ 927.35 [Amendment]

3. Amend § 927.35 (accounting procedure) by (1) redesignating paragraphs (b), (c), (d) and (e) thereof as paragraphs (d), (e), (f) and (g), (2) changing paragraph references in paragraph (c) (redesignated paragraph (e)) from "(a) and (b)" to "(a) through (d)" and (3) adding new paragraphs (b) and (c) as follows:

(b) After the assignments prescribed in paragraph (a) of this section, milk from pool plants or from producers shall be assigned as far as possible to Class I–B when such classification is based upon delivery to a plant or a purchaser in the marketing area defined in Part 1019 of this chapter or to a pool plant pursuant to such part: *Provided,* That if the plant (at which assignment is being made) is a pool plant, milk classified and priced under Part 1019 of this chapter, shall be assigned to such Class I–B prior to the assignment otherwise specified in this paragraph.

(c) After the assignments prescribed in paragraphs (a) and (b) of this section, all milk received which is classified and priced under Part 1019 of this chapter shall be assigned as far as possible pro rata to the total classification of all milk, except that classified in Class I–B, on hand at or leaving such plant as whole milk.

§ 927.83 [Amendment]

4. Amend § 927.83 by:

a. Changing paragraph (a) (1) to read as follows:

(1) It was derived from milk received at a nonpool plant from dairy farmers, from dairy farmers defined as producers pursuant to the provisions of Part 1019 of this chapter or received from a handler designated as a producer-handler pursuant to § 927.15.

b. Inserting a new proviso immediately preceding the last sentence in paragraph (b) (1) to read as follows: *"Provided further,* That no payment shall be applicable to milk distributed on routes in the marketing area defined in this part from a plant which is a pool plant under provisions of Part 1019 of this chapter."

c. Amending the last sentence in paragraph (b) (1) by adding thereto the following: "except that no payment shall be applicable to packaged skim milk classified and priced under provisions of Part 1019 of this chapter".

(Sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c)

Issued at Washington, D.C., this 23d day of March 1959, to be effective on and after the 1st day of April 1959.

[SEAL] CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 59-2612; Filed, Mar. 26, 1959; 8:51 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

PART 21—COMMISSIONED OFFICERS

Prescription of Numbers in Grade

Section 21.111 of Subpart G is amended to read as follows:

§ 21.111 Prescription of numbers in grade.

The following maximum number of officers is authorized to be on active duty in the Regular Corps in each of the grades from the junior assistant grade to the director grade, inclusive, during the fiscal year beginning July 1, 1958, and ending June 30, 1959:

Director Grade	420
Senior Grade	590
Full Grade	495
Senior Assistant Grade	335
Assistant Grade	60
Junior Assistant Grade	0

(Sec. 206, 58 Stat. 694, as amended; 42 U.S.C. and Sup., 207)

This amendment shall be effective as of July 1, 1958.

Dated: November 28, 1958.

[SEAL] JOHN D. PORTERFIELD,
Acting Surgeon General.

Approved: March 23, 1959.

ARTHUR S. FLEMMING,
Secretary.

[F.R. Doc. 59-2600; Filed, Mar. 26, 1959; 8:50 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7240]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

American National Growers Corp. et al.

Subpart—*Discriminating in price under section 2, Clayton Act*—Payment or acceptance of commission, brokerage; or other compensation under 2(c): § 13.820 *Direct buyers.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 2, 38 Stat. 730, as amended; 15 U.S.C. 13) [Cease and desist order, American National Growers Corporation (Los Angeles, Calif.) et al., Docket 7240, Feb. 26, 1959]

In the Matter of American National Growers Corporation, a Corporation; Ballentine Produce, Inc., a Corporation; Hugh B. Campbell, Inc., a Corporation; Harrell H. Ballentine, Individually and as President of Ballentine Produce, Inc.; Herman Ballentine, Individually and as Vice President of Ballentine Produce, Inc.; Ludell Ballentine, Individually and as Secretary-Treasurer of Ballentine Produce, Inc.; Hugh B. Campbell, Individually and as President of Hugh B. Campbell, Inc.; Robert Recken, Individually and as Vice President of Hugh B. Campbell, Inc.; Mary A. Campbell, Individually and as Secretary-Treasurer of Hugh B. Campbell, Inc.; Oscar L. Davis, Jr. and Mrs. Oscar L. Davis, Sr., Individually and as Partners Trading as O. L. Davis Brokerage Company

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a packer of fruits and vegetables under the "Blue Goose" and other labels with principal office in Los Angeles, Calif.—and doing a net business in 1956 amounting to over $44,600,000—with violating section 2(c) of the Clayton Act by paying the customary brokerage fee to brokers on direct sales made by them for their own account for resale; and charging three of its brokers with receiving and accepting such illegal payments.

After acceptance of an agreement containing a consent order, the hearing examiner made his initial decision and order to cease and desist which became on February 26 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That the respondent, American National Growers Corporation, a corporation, and its officers, representatives, agents and employees, directly or indirectly, or through any corporate or other device, in connection with the sale of fruits, fruit products or vegetables in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

1. Paying, granting, or allowing, directly or indirectly, to any buyer, or to any one acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of its said products to such buyer for his own account; or

2. Selling any of said products to a buyer at a price reflecting a reduction from the price at which sales of such products are currently being made by respondent to others, where such reduction is in lieu of brokerage or any part or percentage thereof.

It is further ordered, That respondents Ballentine Produce, Inc., a corporation, and Hugh B. Campbell, Inc., a corporation, their officers, and respondents Harrell H. Ballentine, Herman Ballentine, and Ludell Ballentine, individually

and as officers of Ballentine Produce, Inc., Hugh B. Campbell, Robert Recken and Mary A. Campbell, individually and as officers of Hugh B. Campbell, Inc., Oscar L. Davis, Jr., individually and trading as O. L. Davis Brokerage Company, or trading under any other name, and their respective representatives, agents and employees, directly or through any corporate or other device in connection with the purchase of food products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from: Receiving or accepting, directly or indirectly, from any seller, anything of value as a commission, brokerage or other compensation, or any allowance or discount in lieu thereof, upon any purchase of food products by or for their own accounts or for the account of any buyer for whom they are individually or collectively acting as agents, representatives or intermediaries who are subject to the direct control of said buyer.

It is further ordered, That the complaint be and it hereby is dismissed as to respondent Mrs. Oscar L. Davis, Sr.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondents American National Growers Corporation; Ballentine Produce, Inc.; Hugh B. Campbell, Inc.; Harrell H. Ballentine; Herman Ballentine; Ludell Ballentine; Hugh B. Campbell; Robert Recken; Mary A. Campbell; and Oscar L. Davis, Jr., shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: February 26, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-2575; Filed, Mar. 26, 1959; 8:46 a.m.]

[Docket 7280]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Max Factor & Co.

Subpart—*Advertising falsely or misleadingly:* § 13.170 *Qualities or properties of product or service.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Max Factor & Co., Hollywood, Calif., Docket 7280, February 26, 1959]

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a cosmetic house in Hollywood, Calif., with representing falsely by television, magazine, and other advertising that its "Natural Wave" spray would change the structure of naturally straight to naturally curly hair.

After acceptance of an agreement containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on February 26 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That Max Factor & Co., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the product Natural Wave, or any other product of substantially similar composition or possessing similar properties, whether sold under the same name or any other name, forthwith cease and desist from:

1. Disseminating or causing to be disseminated, any advertisement, by means of television continuity broadcasts in commerce, or by any other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or by implication:

(a) That said product will change the structure of the hair; or

(b) That said product will change naturally straight hair to naturally curly hair.

2. Disseminating or causing to be disseminated, any advertisement by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of said product in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any representations prohibited in Paragraph 1 hereof.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: February 26, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-2576; Filed, Mar. 26, 1959; 8:46 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 257]

SALE OR LEASE OF SMALL TRACTS

Notice of Proposed Rule Making

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the act of June 1, 1938 (52 Stat. 609), as amended by the act of June 8, 1954 (68 Stat. 239; 43 U.S.C. 682a), and Revised Statutes 2478 (43 U.S.C. 1201), it is proposed to revise existing regulations to provide under certain conditions for drawing cards instead of applications or for sealed envelopes in openings of public lands under the act of 1938, supra. The proposed regulations are set forth below.

This proposed amendment relates to matters which are exempt from the rule making requirements of the Administrative Procedure Act (5 U.S.C. 1003), however, it is the policy of the Department of the Interior that, wherever practicable, the rule making requirements be observed voluntarily. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments to the Bureau of Land Management, Washington 25, D.C., within thirty days of the date of publication of this notice in the FEDERAL REGISTER.

ROGER ERNST, *Assistant Secretary of the Interior.*

MARCH 23, 1959.

1. The title to Part 257 is revised to read "Sale or Lease of Small Tracts."

2. Section 257.7 is revised to read as follows:

§ 257.7 Drawing procedure.

(a) Whenever filings in excess of the number of tracts available are anticipated for lands classified for lease and sale or for lease, or when the conditions of § 257.18(c)(2) apply, a drawing or drawings will be held. The classification or other order will give all relevant information concerning the drawing.

(b) The classification or other order may require the filing of either "Veterans' Drawing Entry Cards," Form 4–775, or "Special Drawing Cards," Form 4–775b, as the case may be, in lieu of Application Form 4–776. Any person who has the necessary qualifications may obtain an official drawing entry card upon request to the land office manager. The request should designate the classification order by number and whether or not the person has veterans' priority rights. It should be accompanied by a stamped, self-addressed return envelope. Each successful entrant in a drawing will be furnished in duplicate Form 4–776, bearing the description of the tract allocated to him. The forms must be completely filled out, signed and returned, accompanied by the proper rental and fees within the time allowed by the authorized officer of the Bureau of Land Management. Where an entrant for any reason fails to comply with the requirements within the time allowed, the tract will become available to the alternate next in line in the drawing.

(c) The classification or other order may require the filing of a stamped, self-

addressed return envelope and a sealed envelope containing properly executed copies of application Form 4–776, together with the required filing fees and advance payments (see §§ 257.8 and 257.9).

(d) To qualify for a tract, the entrant must qualify under the regulations of this part and must comply with all instruction in the order and on the entry card, when entry cards are required. If any entrant files more than one entry card or applies for more than one tract in any drawing, the entrant shall be ineligible to participate in the drawing.

[F.R. Doc. 59–2580; Filed, Mar. 26, 1959; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 972, 1012]

[Docket Nos. AO–177–A18, AO–278–A2]

MILK IN TRI-STATE AND BLUEFIELD MARKETING AREAS

Decision With Respect to Proposed Amendments to Tentative Marketing Agreements and Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Bluefield, West Virginia, on December 1 and 2, 1958, pursuant to notice thereof issued on November 10, 1958 (23 F.R. 8872).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on February 26, 1959 (24 F.R. 1656), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

One of the material issues (No. 1) on the record of the hearing relates to both the Tri-State and Bluefield orders; the others relate only to the Bluefield order. The material issues are:

1. Marketing area—whether Pike, Floyd, Johnson, and Martin counties, Kentucky should be included in the Tri-State or Bluefield marketing areas, or be regulated under a separate order.
2. Allocation of receipts from a plant subject to another Federal order.
3. Classification of milk diverted or transferred to nonfluid milk plants.
4. The milk manufacturing plants from which prices should be obtained for formula purposes.
5. Classification of shrinkage.
6. Reports to cooperative associations.
7. Exemption of plants from fluid milk plant status and allocation of other source milk received in bulk form.
8. Provision for more than one accounting period within a month.
9. Determination of daily base.
10. Conforming and miscellaneous changes.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Marketing area.* Proposals were considered at the hearing to include Pike, Floyd, Johnson, and Martin counties, all in the State of Kentucky, as part of the marketing area under either the Bluefield or Tri-State Federal orders or as the marketing area of a separate order. A proposal to include these counties in the Tri-State marketing area was considered at a separate hearing which was held in Gallipolis, Ohio, on December 3, 4 and 5, 1958, pursuant to the notice of hearing issued November 10, 1958 (23 F.R. 8872). Findings and conclusions relative to this issue are reserved for later decision pending further study of the two hearing records. Official notice is taken of the incorporation by reference into the record of the Gallipolis hearing of the testimony given at this hearing covering the issue of regulation of milk sold in those four counties.

2. *Allocation of receipts from a plant subject to another Federal order.* The milk accounting procedure should be modified to accommodate procurement of certain packaged fluid milk products by a handler from a plant regulated under the Appalachian order.

A handler proposed that certain packaged fluid milk products received by a Bluefield fluid milk plant from a plant regulated under the Appalachian order should be allocated to the Class I disposition of the same items by the Bluefield plant. The handler proposed that this allocation of receipts of the specified kinds of packaged milk and milk products would apply only when such milk was classified as Class I milk under the Appalachian order, was disposed of as Class I milk from the Bluefield plant in the same form as received, and the same product was not processed or packaged in the same type container in the Bluefield plant.

The proponent handler operates a fluid milk plant under the Appalachian order as well as a fluid milk plant under the Bluefield order. Consumer-packaged skim milk, cream, half-and-half, sour cream, and glass-packaged milk are regularly received on a day-to-day basis at the Bluefield plant from the handler's Appalachian plant. None of the items named is packaged at the Bluefield plant nor does the Bluefield plant receive these products from any other plant but the one regulated under the Appalachian order. The Bluefield plant processes and packages all other products which are disposed of from the plant as Class I.

The present system of accounting for milk under the order gives producer milk prior claim to all Class I sales. This is accomplished by assigning milk from nonproducer sources (other source milk) to the Class II utilization in the handler's plant to the extent possible. Any other source milk in excess of Class II utilization is assigned to Class I disposition. Other source milk which is priced under another Federal order is assigned separately to utilization in the Bluefield fluid milk plant after the assignment of any other source milk from plants not under any Federal order regulation. This accounting procedure tends to accommodate a handler who wishes to obtain supplemental milk from another Federal order market when his own producer supply is not sufficient to cover Class I needs. The proposal of the handler accommodates a different situation, in that the source of certain products depends on specialized plant operation rather than availability of producer milk.

Under the terms of the Appalachian order, all disposition by a plant of packaged fluid milk products (including transfers to Bluefield plants) is Class I milk for which the plant is obligated to pay Appalachian producers. When such packaged items are received at a Bluefield plant and disposed of therefrom to consumers, they then become Class I disposition under the Bluefield order, for which the handler is obligated to Bluefield producers to the extent that producer milk is available.

In recognition of this regular transfer of packaged items, and the fact that the daily and seasonal reserves are, in fact, borne by the Appalachian producers, the allocation provisions of the Bluefield order should be modified so that Class I disposition by a Bluefield handler of consumer-packaged milk, skim milk, cream, mixtures of cream with milk or skim milk, and sour cream which were received from an Appalachian fluid milk plant will be assigned first to Class I prior to the other steps in the allocation procedure. Any distinction as to type of container is unnecessary. The credit to the handler should be based on the lesser of the quantity of receipts or sales in the case of each packaged product.

Another handler proposed that any milk which is priced as Class I under another order should take priority over producer milk in the accounting procedure. The handler did not testify as to any handler who was receiving milk from another Federal order plant on a regular basis nor did he show any need as to why other Federal order milk should take priority over milk of producers who ordinarily and regularly supply milk for handlers' Class I sales and the reserve supply associated with such sales. Accordingly, the modification is denied.

3. *Classification of milk diverted or transferred to nonfluid milk plants.* The order should provide that milk transferred or diverted to a nonfluid milk plant may be classified as Class II utilization subject to use verification by the market administrator if the plant is not more than 300 miles from Bluefield, West Virginia.

The order now provides that milk transferred or diverted to a nonfluid milk plant which is more than 200 miles from Bluefield, West Virginia, shall be classified as Class I. A handler proposed that this provision should be modified so that transfers or diversions to a nonfluid milk plant located at Maysville, Kentucky, which is approximately 260 miles from Bluefield, West Virginia, could be classified as Class II milk if equivalent use were shown in the nonfluid milk plant. The Maysville plant is located approximately 13 miles from the farms of some of this handler's producers.

In recognition of the nearness of the manufacturing facility at Maysville to the farms of the group of Bluefield producers, it is appropriate that milk diverted thereto should be classified according to equivalent use. This may be accomplished by extending the mileage limitation to 300 miles from Bluefield. In view of the numerous milk manufacturing plants within the milkshed area, there is no need to extend the distance limitation beyond this. Such a limit should be retained with respect to classification of diversions and transfers in the interest of avoiding undue cost to the market administrator in verifying utilization at nonfluid milk plants.

4. *The milk manufacturing plants from which prices should be obtained for formula purposes.* The list of manufacturing plants named in the order for the purposes of establishing a Class II price and also as one of the alternatives for the basic formula price should not be changed.

A handler proposed that this list of milk manufacturing plants should be changed by deleting the Kraft Foods Company plant at Greeneville, Tennessee, and inserting the Carnation Company plant at Maysville, Kentucky. In a decision of the Assistant Secretary issued April 14, 1958 (23 F.R. 2533), official notice of which is taken, the list of manufacturing plants now used for formula pricing purposes was changed to give a better representation of the price level for manufacturing milk in the area. The proponent handler did not present data as to prices paid at the named plant. The testimony did not show that the proposed change would result in a more appropriate price for Class II milk. The proposal is denied.

5. *Classification of shrinkage.* No change should be made in the classification of shrinkage.

A handler proposed that the classification of shrinkage allocated to producer milk should be Class II up to 2 percent of the volume of producer milk. This same proposal was considered at the previous hearing to amend the Bluefield order and it was denied in the decision of the Assistant Secretary issued April 14, 1958. The testimony in the record of this hearing does not show that any change in marketing conditions in the Bluefield area since the previous decision would require modification of the classification of shrinkage of producer milk. The proposal is denied for the same reasons as set out in the decision of April 14, 1958.

6. *Reports to cooperative associations.* A producer association asked that the order require the market administrator to furnish to cooperative associations the information as to the pounds of milk delivered by member-producers which was used in Class I by each handler (computed on a pro rata basis) and the percentage relationship of member-producer milk to all Class I disposition by the handler.

The producer association requested this provision to facilitate the efficient marketing of members' milk according to handler needs, and to achieve the highest possible Class I utilization of member milk. Handlers opposed this provision, taking the position that a cooperative could obtain sufficient information for these purposes through calculations based on the published blend prices paid by each handler.

The Bluefield order provides for two classes of utilization and individual handler pooling. An approximate utilization of members' milk could be computed from the blend price of each handler, with some possible discrepancies, however, due to rounding of figures, audit adjustments, inventory adjustments, and different class utilization of butterfat and skim milk. This calculation would not show the relation of members' milk in Class I to the handler's total Class I disposition if the handler received milk from nonmember sources.

The market administrator could compute the amount of member milk for each handler and its pro rata utilization on an exact basis for skim milk and butterfat with only minor extensions of the computations now required under the order. This part of the provision requested by producers would not involve any additional reports by handlers and it would be helpful to the association in arranging supplies of milk according to handlers' needs. It is concluded that such a provision should be included in the order.

The further proposal that there be revealed to the association the percentage relation of members' milk in Class I to total Class I use of the handler would in effect provide the association with information as to the amount of the handler's supply from nonmember sources. Such nonmember sources might or might not be a cooperative association. There is not a clear justification on the record for revealing to cooperative associations information as to amounts of nonmember milk received by a handler, or use thereof.

7. *Emergency exemption of shipping plants from price regulation.* A group of handlers proposed two amendments which would allow them to use milk from unregulated sources for Class I sales when, under the terms of the proposal, "milk was not available from producers at order prices". One of these amendments would at such times allow any plant to ship milk to a fluid milk plant in this market without becoming subject to price regulation. The other proposed amendment would allow for allocation of such other source milk to Class I before producer milk.

Federal orders establish minimum prices to be paid by handlers to producers in regulated markets. To achieve the purpose of orderly marketing as set forth in the Agricultural Marketing Agreement Act of 1937, it is necessary that the regulation cover all plants supplying the market excepting such minor operations and temporary arrangements which do not disturb and undermine the pricing regulation. If it were possible for handlers to draw a substantial proportion of their supply from sources not subject to price regulation, this situation would make the pricing function of the order ineffective and useless, and a disorderly marketing situation would result. The partial regulation of market supply contemplated in the handler proposals obviously could result in inequality in the application of minimum prices among handlers, and would encourage every handler to seek milk from unregulated sources.

The interruption for any reason of supply from the normal sources upon which handlers depend is not a usual situation and may be likely to involve factors which cannot be foreseen with such exactness that the situation or remedy therefor can be described in order provisions. In any case, there is no restriction under the order concerning the farmers or plants from which handlers may purchase milk.

It is concluded that the proposed exemption of shipping plants from the price provisions of the order is not in accordance with the purposes of the Agricultural Marketing Agreement Act and is hereby denied.

In view of this it is unlikely there would be any substantial percentage of unregulated milk in handlers' plants used to meet Class I requirements. It is possible that there would be some other source milk used in Class I, since the order does not regulate during the period of August through January plants which ship less than 70,000 pounds a month to the market and which receive milk only from farmers who do not hold permits issued by a health authority in the marketing area. To the extent unregulated milk may be received, however, it should continue to be subject to accounting procedure such as is now in the order which gives producer milk priority in assignment to Class I use. This is necessary to assure producers of the minimum blend prices which it is contemplated under the statute will need to be returned to them. In another part of this recommended decision it is concluded that a handler should be allowed to use more than one accounting period in a month. In view of these considerations the order will provide adequate flexibility to handlers in procuring supplies of milk for Class I milk needs, and there is no basis for any allocation of unregulated milk to Class I before producer milk.

8. *Provision for more than one accounting period within a month.* Handlers should be allowed to use accounting periods of less than a month after proper notification to the market administrator.

Handlers requested that accounting periods of less than a month be permitted. The purpose of this proposal was to allow allocation of milk from nonproducer sources to Class I when producer milk becomes short within periods of less than a month. If handlers were allowed to use accounting periods of less than a month, producer milk could then be allocated according to its availability within such accounting period.

Under present monthly accounting, if a handler's receipts of producer milk are adequate at the beginning of a month but near the end of the month are less than Class I sales, then the excess of producer milk at the beginning of the month would be at least partially allocated to

Class I sales in the latter part of the month.

The monthly accounting system has become the usual standard under Federal milk order regulation and is generally accepted as the most practical method of applying the provision of the Act which requires milk to be classified "in accordance with the form in which or the purpose for which it is used * * *" There are administrative limitations involved in accounting for specific "lots" of milk according to physical disposition; and allocation provisions such as those provided in the order are necessary to distinguish producer and other source milk for classification purposes. This distinction eliminates the impossible administrative task of ascertaining the particular use of each hundredweight of milk from each source and makes possible a practical accounting system. The extent to which producer milk may be given priority allocation of higher-valued uses has been established as the prerogative of the Secretary in formulating provisions which will provide for producers reasonable protection against substitution for producer milk and thus promote orderly marketing. In any event, the handler is not compelled to pay producers for any greater utilization of milk than he actually uses in the particular class.

During the ten-month period beginning with January 1958 and ending with October 1958, producer receipts as a percent of Class I sales ranged from a high of about 126 in June to a low of approximately 95 in March. Total producer receipts during this period were approximately 105 percent of total Class I sales. In view of the relatively narrow margin which exists in some months between production and sales, the probability of shortages of producer milk during periods of less than a month is more likely than in markets with larger reserves. The additional flexibility in the procurement, which would be allowed to handlers under this proposal, could be of benefit in assuring an adequate supply for the market at all times.

It is not likely all handlers in the market will exercise, at the same time, the use of an accounting period of less than a month. This consideration bears on the cost of administering the order and the sharing of the burden of this cost among handlers. While the net obligation of handlers will continue to be computed on a monthly basis, the division of a month into more than one accounting period requires proof of receipts, sales, inventories, and shrinkage for each period. It is apparent that the administrative costs involved in verifying handlers' reports and dealing with the additional administrative problems would be increased, and that these increased costs would be directly associated with the operations of the handler who elected the shorter accounting period. For these reasons there would not be an equitable sharing of the administrative costs among handlers unless the additional expenses involved were placed upon the handler responsible. There is not now any experience in this market by which to measure precisely how much additional expense would be incurred. It is possible that the administrative costs in verifying a handler's operations for a shorter accounting period would be about the same as for a monthly period. Accordingly, a handler electing to use more than one accounting period within a month should pay for administrative expense at a rate calculated by multiplying the normal rate by the number of accounting periods in the month. It is provided in the attached proposed amendment, however, that the amount could be reduced if actual cost proves to be less than the specified rate.

In order to facilitate the administration of the order, each handler who elects to use more than one accounting period within a month should so notify the market administrator in writing at least 24 hours before the end of each accounting period.

9. *Determination of daily base.* The Bluefield order should be amended to include in the calculation of each producer's daily average base the milk received at Appalachian fluid milk plants during the previous months of September through February from the same farm (or farms) from which milk was received by fluid milk plants under the Bluefield order.

A producer association proposed that producers whose milk is intermittently delivered to plants under the Appalachian order during the base-forming period be credited with such deliveries in computation of base under the Bluefield order. The proponent cooperative is responsible for marketing over 95 percent of the producer milk received at fluid milk plants under the terms of both the Bluefield and the Appalachian milk orders. At times, if the milk of certain producers is not needed by the Bluefield or Appalachian fluid milk plants operated by proprietary handlers, it is received at a plant operated by the cooperative at Bristol, Virginia, which has qualified in every month since beginning operations as a fluid milk plant under the provisions of the Appalachian order. The cooperative plant, in turn, supplies milk to Appalachian plants and at least one Bluefield plant, thus servicing both markets. Some of the milk in excess of the fluid sales requirements of plants distributing in the marketing area has been shipped from the cooperative plant to plants located in Florida, North Carolina, and South Carolina.

The base plan in the Bluefield order was provided to encourage individual producers to deliver a greater proportion of milk in short production months and a lesser proportion during flush production months. (In this connection official notice is taken of the decision of the Assistant Secretary issued August 31, 1956 (21 F.R. 6780).)

On several days during September and October 1958, the milk of 53 dairy farmers which was not needed for Class I use at those Bluefield fluid milk plants which ordinarily receive it was received at the cooperative's plant at Bristol, Virginia. Bases will be calculated for these farmers pursuant to the terms of the Appalachian order on such deliveries. Accordingly, these farmers will have partial bases in the forthcoming months of April through July 1959 under the terms of both the Bluefield and Appalachian orders and not a full base under either order. Therefore, the concerned producers will receive relatively less base than warranted by the seasonality of their production.

Handlers requested that the new base provision proposed by producers should apply only in those periods when Bluefield producer milk is more than 110 percent of Class I sales. Handlers argued that their modification would prevent the cooperative from removing milk from the market to take advantage of a higher Class I price elsewhere at times when such milk is needed by the Bluefield market.

Such a modification of the proposed plan appears unnecessary. Maintenance of an adequate supply for the Bluefield market would not be threatened by inclusion in base computations the occasional deliveries of milk to Appalachian order plants when such milk is not needed by Bluefield handlers. If the association removed milk needed by Bluefield handlers its members would lose Class I sales in this market. The fact that both of these markets, during the base-forming period, experience a rather small percentage of milk in reserve indicates that some occasional transfers of producers between markets to meet variations in handlers' requirements would be in the interests of economical utilization of the supply available to the two markets.

It is concluded that the proposed provision for including deliveries to Appalachian order plants in the computation of bases for Bluefield producers with certain limitations would tend to further the objective of obtaining a better seasonal pattern of production and thus would be in the interest of orderly marketing of milk for both markets. It will facilitate shifting of supplies between the two markets to meet the variations in needs of handlers.

The computation of bases should provide, however, that a producer will not be given a base which was not substantially earned by deliveries to Bluefield handlers' plants. This is necessary so that the effects and the benefits of the base plan will apply to those farmers who constitute the substantial and regular supply for the market. The proponent producer association indicated in their exceptions that the allowance of 30 days' production delivered to Appalachian order plants as provided in the recommended decision would not give sufficient flexibility for economical management of milk supplies. The amount of milk deliveries to Appalachian order plants which should be included in the computation of bases for Bluefield producers should be limited to not more than 55 days' production during the base-forming period. Such an allowance will provide adequate flexibility with respect to a need for shifting producers between the two markets and economical use of the milk supplies.

10. *Conforming changes.* Prior findings and conclusions herein call for changes in order provisions which would require some changes in designations of

paragraphs or subdivisions thereof, and references thereto.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the markets. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Bluefield Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Bluefield Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of November 1958 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Bluefield marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Issued at Washington, D.C., this 23d day of March 1959.

[SEAL] CLARENCE L. MILLER,
Assistant Secretary.

Order[1] *Amending the Order Regulating the Handling of Milk in the Bluefield Marketing Area*

§ 1012.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Bluefield marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held; and

(4) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundredweight or such amount not to exceed 5 cents per hundredweight as the Secretary may prescribe, with respect to butterfat and skim milk pursuant to § 1012.95.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Bluefield marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Delete the portion of § 1012.30 preceding paragraph (a) and insert the following:

§ 1012.30 Reports of receipts and utilization.

On or before the 6th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator for such month, and for each accounting period in such month, in the detail and on forms prescribed by the market administrator for each of his approved plants for such month as follows:

2. In § 1012.30, delete the word "and" at the end of paragraph (d); delete the period at the end of paragraph (e) and insert a semicolon and the word "and"; and add a new paragraph (f) as follows:

(f) Each handler who submits reports on the basis of accounting periods of less than a month, as described in § 1012.46(d), shall submit a summary report of the same information for the entire month.

2a. Insert a new § 1012.34 as follows:

§ 1012.34 Accounting periods.

A handler may account for receipts of milk, utilization and classification of milk at his plants for periods within a month in the same manner as for a month, if he provides to the market administrator in writing not later than 24 hours prior to the end of an accounting period notification of his intention to use such accounting period.

§ 1012.44 [Amendment]

3. In § 1012.44(c), delete the language preceding subparagraph (1) and substitute the following:

(c) As Class I milk if diverted or transferred in bulk form as milk or skim milk to a nonfluid milk plant located in the marketing area or not more than 300 miles by the shortest highway distance as determined by the market adminis-

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

trator from the City Hall in Bluefield, West Virginia, unless:

§ 1012.46 [Amendment]

4a. In § 1012.46, delete paragraph (a) and substitute the following:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class I milk disposed of as milk, skim milk, cream (except frozen cream), and any mixture in fluid form of milk, skim milk and cream (except sterilized products in hermetically sealed containers, ice cream mix and eggnog), all in consumer-packaged form on routes, the pounds of such skim milk received during the month in the same product and same packages from a plant fully regulated pursuant to Order No. 23 (Part 923 of this chapter) regulating the handling of milk in the Appalachian marketing area;

(2) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk assigned to producer milk pursuant to § 1012.42(d);

(3) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk in other source milk (that derived from milk priced under another Federal order, not including that subtracted pursuant to subparagraph (1) of this paragraph, to be subtracted last): *Provided,* That if the receipts of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II milk, the amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

(4) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk contained in inventory of products designated as Class I milk pursuant to § 1012.41(a) (1) on hand at the beginning of the month: *Provided,* That if the pounds of skim milk in such inventory are greater than the remaining pounds of skim milk in Class II milk, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

(5) Subtract from the remaining pounds of skim milk in each class the skim milk received from the fluid milk plants of other handlers in the form of products designated as Class I milk in § 1012.41(a) (1), according to its classification as determined pursuant to § 1012.44(a);

(6) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (2) of this paragraph; and

(7) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk contained in producer milk, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be known as "overage".

b. In § 1012.46, delete the period at the end of paragraph (c) and insert a semicolon and the word "and", and add paragraph (d) as follows:

(d) A handler may account for receipts of milk, utilization of milk and classification of milk for a period of less than a month if he notifies the market administrator in writing of his intention to use such accounting period not later than the end of such accounting period.

§ 1012.53 [Amendment]

5. In § 1012.53, delete the proviso and substitute the following: *"Provided,* That for the purpose of calculating such location differential, products so designated as Class I milk which are transferred between fluid milk plants shall be assigned to any remainder of Class II milk in the transferee-plant after making the calculations prescribed in § 1012.46(a) (1), (2) and (3), and the comparable steps in § 1012.46(b) for such plant, and after deducting from such remainder an amount equal to 0.05 times the skim milk and butterfat contained in the producer milk received at the transferee-plant, such assignment to transferor plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential."

§ 1012.70 [Amendment]

6. In § 1012.70, delete paragraph (e) and substitute the following:

(e) Add the amount obtained in multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of producer milk classified in Class II during the preceding month, or the hundredweight of milk subtracted from Class I pursuant to § 1012.46 (a) (4) and (b), whichever is less.

7. Delete § 1012.80, and substitute the following:

§ 1012.80 Determination of daily base.

The daily base of each producer shall be calculated by the market administrator as follows: To the pounds of milk received from the producer during the months beginning with September of the previous year and through February of the current year at all fluid milk plants add the milk produced by the same person on the same farm(s) on 55 days or less during such months and received at plants which are defined as fluid milk plants pursuant to the order regulating the handling of milk in the Appalachian marketing area (Part 923 of this chapter), and divide by the number of days from the first day milk is so received to the last day of February, inclusive, but not less than 120 days: *Provided,* That if milk so received at a fluid milk plant pursuant to Part 923 of this chapter is more than 55 days' production, the production on only the first 55 of these days shall be used for this computation.

8. In § 1012.95, delete the period at the end of paragraph (c) and insert a comma and the word "and" and add a new paragraph (d) as follows:

(d) with respect to payments pursuant to paragraphs (a), (b) and (c) of this section, if a handler uses more than one accounting period in a month, the rate of payment per hundredweight for such handler shall be the rate for monthly accounting periods multiplied by the number of accounting periods in the month or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular costs of administering the additional accounting periods.

[F.R. Doc. 59-2611; Filed, Mar. 26, 1959; 8:51 a.m.]

DEPARTMENT OF LABOR

Division of Public Contracts

[41 CFR Part 202]

EVAPORATED MILK INDUSTRY

Tentative Decision

This matter is before the Department pursuant to the act of June 30, 1936 (49 Stat. 2036, as amended; 41 U.S.C. 35–45), known as the Walsh-Healey Public Contracts Act.

Notice of a public hearing to be held on June 12, 1958, was published in the May 20, 1958, issue of the FEDERAL REGISTER (23 F.R. 3407). Copies of the notice and of a press release announcing the hearing were mailed to all known trade associations, labor organizations, and other interested persons in the Evaporated Milk Industry. In addition, the press release was distributed to the newspapers.

This notice informed interested persons of the time and place at which they could appear and offer testimony as to: (1) The appropriateness of the proposed definition of the industry; (2) what are the prevailing minimum wages in the industry; (3) whether a single determination for all the area in which the industry operates or separate determinations for smaller geographic areas (including the appropriate limitation for such areas) should be determined for this industry, and (4) whether there should be included in any determination for this industry provision for the employment of probationary workers at wages lower than the prevailing minimum wages, and on what terms or limitations, if any, such employment should be permitted.

Pursuant to the notice, a public hearing was commenced on June 12, 1958, in the Department of Labor Building, Washington, D.C., and concluded on June 20, 1958. At the hearing, representatives appeared for the following: The Evaporated Milk Association, Carnation Milk Company, Pet Milk Company, and the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. The record was held open for thirty days from the receipt of the transcript of the proceedings for any party or interested person to file proposed findings, conclusions, and supporting arguments which were received only from the Evaporated Milk Association. Thereafter, on August 21, 1958, the record was certified to me by Hearing Examiner Clifford P. Grant.

DEFINITION

The notice of hearing described the industry as that industry which manufactures or furnishes evaporated milk. No objections were raised to the appropriateness of the definition at the hearing, and no proposed findings or conclu-

sions urging any different definition have been directed to it. I find that this definition is appropriate for this industry.

LOCALITY

The union submitted no post-hearing proposed findings on the noticed issue of whether a single determination should be made for all the area in which the industry operates or whether there should be separate determinations for smaller geographic areas, including the appropriate limitations for such areas. At the hearing, however, the representative of the union in the course of his testimony proposed an industrywide basis of determination and opposed separate determinations for smaller areas or regions.

The management association filed objections on this issue, designated as proposed findings and conclusions. Its principal objection was that it was neither necessary nor proper to determine a prevailing minimum wage in this industry "at this time." It further objected as a matter of law to any locality finding either on a "nationwide" basis or on "the basis of broad regional areas." The dominant argument of the association in support of this objection is a reading of the word "locality" in section 1(b) of the Act as compelling determination of prevailing minimum wages for the locality or area of each establishment in the industry. The association further proposed that if a determination nonetheless were made on the basis of the five geographic regions "designated" in the record, the States of Kentucky, Virginia, West Virginia and Maryland "should be included in Region II and excluded from Region I."

The objection of the association that determination of prevailing minimum wages in this industry on a "nationwide" basis or for regional areas contravenes the Act, and that such determination must be on the basis of the locality or area in which each establishment in the industry is located, is overruled. Mitchell v. Covington Mills, 229 F. 2d 506, cert. den. 350 U.S. 1002, rehearing denied 351 U.S. 934.

The further objection that a determination in this industry is not necessary nor proper at this time, if it "results in a minimum wage rate higher than that now existing" ($1.00), as inequitable and discriminatory unless "effective minimums may be determined for other branches of the dairy industry", is overruled.

This multi-part objection overlooks the scheme of the Act which contemplates that all five of its representations and stipulations, including the one requiring payment of the prevailing minimum wages, be made a part of each contract to which the Act applies, subject only to the exception in section 12 of the Act. This exception provides that the stipulation and representation with respect to minimum wages shall not be included in contracts relating to any industry which has not been the subject matter of a wage determination by the Secretary of Labor. This is not the case as to the Evaporated Milk Industry. There is now, and there has been, a prevailing minimum wage determination in effect for this industry for the past 17 years. Since the minimum wage of $1.00 which the current determination requires is substantially below the one now found to be prevailing, the need for redetermination at this time is clearly both necessary and appropriate.

Furthermore, the Department, recognizing the fact that determinations and redeterminations for each and every industry to which the Act applies cannot be accomplished simultaneously, has adopted the necessary policy of giving priority to those determinations in which the need appears to it to be most substantial. This industry received contracts for over seven and a half million dollars during calendar year 1957. These facts lead me to conclude that redetermination of prevailing minimum wages in this industry is both necessary and appropriate.

A further post-hearing objection of the association, also sought to be supported by data first submitted after the record was closed, was directed to the exclusion from the minimum wage survey of plants not primarily engaged in the industry. The exclusion is in accord with recognized and longstanding practice of the Bureau of Labor Statistics in classifying industrial activity, and I take official notice of the common use of the similar practice for the similar purpose in the official reports of other Government agencies. It is an accredited and reasonable standard for the classification of industrial activity. The objection of the association is overruled.

The evidence on the issue of locality compels the finding that the area of competition for Government contracts subject to the Walsh-Healey Act in the products of this industry is coextensive with all of that area in which the industry has its establishments and that it may not be defined more narrowly.

Government Exhibit 9 identifies the origin and destination of bids and awards in this industry, subject to the Act, on invitations to bid issued by the Army Quartermaster Corps during calendar year 1957. Government Exhibit 8 discloses that the Quartermaster Corps made 98 percent of the total Government purchases of evaporated milk. The evidence in Government Exhibit 9 is tabulated for the entire United States and also is separately tabulated by five separate geographic areas or regions. This exhibit, in no wise controverted, shows that not one of these regions occupied an insular position in terms of the competition for Government business. Thus, establishments located in Region I bid on contracts for delivery in all of the five regions and received contracts for delivery in all but one region; those in Region II bid on contracts for delivery in Regions I, II, and III and received contracts for delivery in Regions I and II; those in Region III bid on contracts for delivery in Regions III, IV, and V and received contracts for delivery in Regions III and IV; those in Region IV bid on and received contracts for delivery in Regions IV and V, and those in Region V only bid on and received contracts for delivery in Region V.

If certain States are transposed from Region I to Region II as proposed by the management association, the overall inter-regional pattern of bids and awards in the industry found above are unchanged, and only a transposition results in the individual patterns of these two regions (Government Exhibit 9 (Supplement)).

The uncontroverted evidence thus establishes that each region competed for Government contracts in this industry subject to the Act with other regions in such an overlapping manner that no single region was isolated from competition originating outside its boundaries and that all regions but one competed in more than one and in as many as four other regions.

Under all the evidence, therefore, I find that the locality in which the products of the Evaporated Milk Industry are to be manufactured or furnished under contracts subject to the Act, includes all that area in which the industry has its establishments.

WAGES

The evidence relating to minimum wages in the Evaporated Milk Industry consists of tabular statistics reflecting the wage structure of the industry in the payroll period nearest September 15, 1957. These tabulations were prepared by the Bureau of Labor Statistics of this Department on the basis of a survey which it conducted specially for these proceedings. Evidence was also introduced at the hearing showing increases in minimum wages effective between the survey date and the date of hearing.

The Bureau's survey included all establishments with 20 or more employees. Sixty-seven establishments with 4,215 covered employees were found to be within the scope of the survey as the industry was defined in these proceedings. Wage data were actually obtained for all 67 establishments operating in the industry.

The payroll period nearest to September 15, 1957, surveyed by the Bureau was agreed to as representative by both management and labor representatives in the industry at a prehearing panel conference in these proceedings convened under the Rules of Practice which govern them.[1] Management representatives at such conference designated the month of September as a "median" month as to production and employment, and as most appropriate for surveying minimum wages in the industry. At the hearing, no objection was voiced to the appropriateness of this period. In its post-hearing presentation, the management association for the first time contends that the payroll period thus designated and agreed to has resulted in "an erroneous and incorrect" presentation of the minimum wage structure of the industry.

This tardy reversal of position by the association is not based on the record as made, but is sought to be sustained by certain factual material first submitted after the record was closed for the submission of evidence. It consists of data on production and employment

[1] The Rules of Practice ("Minimum Wage Determinations under the Walsh-Healey Public Contracts Act"), 41 CFR, Chapter II, Part 203, Subpart C, § 203.16.

in the industry covering the three-year period 1954–1956, for the United States, Illinois, Michigan and Wisconsin. Even if this data were properly before me, which it is not, it clearly shows the month of September in each of the three years to have been about at the midpoint between the high and low months of production and employment.

I am not persuaded that so situated, the September period is unrepresentative or inappropriate for purposes of a survey of minimum wages in this industry. To follow the association's unsupported contention would deprive these proceedings of the basic evidence of minimum wages gathered by the survey, and render them abortive. Nothing in the record before me justifies or requires this result, and the association's objection is overruled.

The Bureau of Labor Statistics (BLS) wage data introduced at the hearing shows that the Evaporated Milk Industry is a relatively high-wage industry and that no single minimum hourly wage is found among the several plants with such frequency that it fairly may be said to be "prevailing" in the industry, in the sense that it will serve to distinguish the plants which pay "not less than * * * the prevailing minimum wages for persons employed in * * * the particular" industry. In this context, relating establishment minimum wages to total employment units and to total covered employment in such units has been adverted to in many similar proceedings for a finding of the minimum wage most representative of the minimum wage practices of the industry as a whole, and as the best measure of the industry standard which I am directed to find and determine as the prevailing minimum wage.

This process of determination which the management association objects to and erroneously describes as a "median rate method" of determining prevailing minimum rates has been validated upon judicial review. Mitchell v. Covington Mills, supra; Allendale Co. v. Mitchell, 226 F. 2d 765, cert. den. 351 U.S. 909; Alabama Mills, Inc. v. Mitchell, 244 F. 2d 21, cert. den. 355 U.S. 834.

At the hearing the union proposed a finding that $1.60 per hour be determined as the prevailing minimum wage for covered workers in the industry, excluding probationary workers. In view of the finding arrived at below, this proposal of the union is rejected.

Government Exhibit No. 4, Table 3, shows the distribution of establishments and workers (excluding probationary workers), by the lowest rate actually paid to covered workers in the payroll period nearest September 15, 1957. This tabulation contains the only complete evidence of minimum wages paid by the separate establishments in the industry in the survey period, and it is undisputed in the record before me. Analysis of the minimum wage data contained in Table 3 shows that 49.3 percent of the establishments employing 56.2 percent of the covered workers in the industry paid no covered worker a minimum wage of less than $1.58 per hour.

Therefore, upon the basis of the record before me, I find that the prevailing minimum wage in the manufacture or furnishing of evaporated milk is $1.58 per hour.

The notice of hearing invited interested persons to submit evidence with respect to any changes in minimum wages for persons employed in this industry since the date of the BLS survey. Responsive to this invitation the union submitted evidence received at the hearing of minimum wage increases since the survey period. The management association in its post-hearing presentation grants that approximately 95 percent of the workers in this industry are organized and represented by national unions. The union representative testified that the data on wage increases since the survey period submitted by the union represented such data as to 76.1 percent of the establishments in the industry employing 84.2 percent of the covered workers on the basis of the BLS wage survey. The union representative further testified that increases in wages during the period in question applied to the lowest paid covered worker represented by the union under the terms of then existing contracts with establishments in the industry and that such data disclosed a "concentration of at least 10 cents". At the hearing the association objected to introduction of these union data on wage increases, questioning its applicability, pertinence and accuracy, and in its post-hearing presentation argues that no finding "as to average minimum wage rate increases" is appropriate, but it offered that "The Association does, however, contend that any increase from September 15, 1957, to date is in no event in excess of the 8 cents per hour tentative determination by the Department." The reference to a tentative determination is in error and obviously is a reference to an analysis of certain data with respect to average hourly earnings which the BLS witness discussed in his testimony.

The union data evidenced of record on post-survey wage increases is comprehensive and includes the preponderant majority of the plants and covered workers in the industry. It overstates the number of establishments in one of the five regions by 2 and the total number of covered workers by 305, when compared with the figures given by the BLS survey, Government Exhibit 4 in evidence. However, allowing for the exclusion of these two discrepancies, results in no prejudicial change in the high percentages of both plants and covered workers affected by the wage increases negotiated by the union.

The union's evidence of post-survey wage increases in minimum wages shows that they range from 5 cents to 25 cents per hour. Not less than 37 establishments out of the 49 for which usable data was submitted granted an increase in their respective minimum wages of not less than 10 cents an hour. These 37 establishments constitute 55 percent of the total establishments in the industry employing approximately two-thirds of all covered workers. Based upon the record before me I find that from September 1957, the date of the wage survey, to the date of the hearing an increase of 10 cents per hour has taken place in the prevailing minimum wage of $1.58 per hour in this industry, and I therefore find that the prevailing minimum wage for persons employed in the Evaporated Milk Industry is $1.68 per hour.

Probationary Workers

A probationary worker for purposes of the BLS survey was defined as "a new plant employee hired at a rate lower than that established for a specific job during the period of time required to receive orientation or initial training for that job."

The wage data shows that 44 out of the total of 67 establishments in the industry employing 3,054 covered workers out of the 4,215 total reported lowest established rates for probationary workers lower than for experienced workers. Twenty-three establishments employing a total 1,161 workers reported either no established hiring rate or no differential between it and the lowest rate paid to experienced covered workers. In view of the employment of probationary workers at these lower rates by a substantial segment of the industry, a tolerance rate under section 6 of the Act is appropriate for probationary workers.

Table 5 further shows that 22 of the 44 establishments reporting a differential between their lowest established hiring rate for probationary workers and the lowest rate paid to experienced workers, employed such probationers at not more than 5 cents below the lowest rate they paid to experienced workers. Fifteen of the 22 establishments which pay a differential of not more than 5 cents per hour reported a period of one month or less as the time required for probationary workers hired at the lowest hiring rate to reach the lowest job rate.

I conclude therefore that the employment of probationary workers at subminimum rates should be authorized, and that a wage rate of $1.63 an hour for a period not to exceed one month is appropriate and shall be permitted for probationary workers in the Evaporated Milk Industry.

Each proposed finding and conclusion submitted has been duly considered and each one inconsistent with the findings and conclusions herein made, is overruled.

Proposed Determination

Accordingly, upon the findings and conclusions stated herein, and pursuant to authority under the Walsh-Healey Public Contracts Act (49 Stat. 2036; 41 U.S.C. sec. 35 et seq.), and in accordance with the Administrative Procedure Act (60 Stat. 237; 5 U.S.C. 237), notice is hereby given that I propose to amend Title 41 of the Code of Federal Regulations, Part 202, § 202.40 (41 CFR 202.40) to read as follows:

§ 202.40 Evaporated milk industry.

(a) *Definition.* The evaporated milk industry is defined as that industry which manufactures or furnishes evaporated milk.

(b) *Minimum wages.* The minimum wage for persons employed in the manufacture or furnishing of products of the evaporated milk industry under contracts subject to the Walsh-Healey Public Contracts Act shall be not less than $1.68 per hour arrived at either on a time or incentive basis.

(c) *Tolerance.* Probationary workers may be employed at wages not less than $1.63 an hour, arrived at either on a time or incentive basis, for a period not to exceed 160 hours. A probationary worker for the purpose of this section is a new plant employee hired at a rate lower than that established for a specific job during the period of time required to receive orientation or initial training for that job.

(d) *Effect on other obligations.* Nothing in this section shall affect any obligations for the payment of minimum wages that an employer may have under any law or agreement more favorable to employees than the requirements of this section.

Within fifteen days from the date of the publication of this notice in the FEDERAL REGISTER, interested parties may submit written exceptions to the proposed actions above described. Exceptions should be addressed to the Secretary of Labor, United States Department of Labor, Washington 25, D.C.

Signed at Washington, D.C., this 19th day of March 1959.

JAMES P. MITCHELL,
Secretary of Labor.

[F.R. Doc. 59-2581; Filed, Mar. 26, 1959; 8:47 a.m.]

[41 CFR Part 202]

FABRICATED STRUCTURAL STEEL INDUSTRY

Tentative Decision in Determination of Prevailing Minimum Wages

A complete record of proceedings under sections 1 and 10 of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 and 45a) to determine the prevailing minimum wages for persons employed in the fabricated structural steel industry has been certified by the hearing examiner. The record, including findings of fact, conclusions of law and supporting arguments proposed by the parties, has been fully considered. A tentative decision, including a statement of findings and conclusions, as well as the reasons and basis therefor, on all material issues of fact, law, or discretion presented on the record, and any proposed wage determination is now appropriate under the rules of practice 29 CFR 203.21(b), and the Administrative Procedure Act (5 U.S.C. 1007(b)).

DEFINITION

The notice of hearing presents a definition of the industry as "that industry which manufactures the following products: anchors for structural steel; bases of steel or iron; beams, purlins, girts; bearing plates for structural steel; bearing shoes for bridges; bracing; brackets; bridge pins; bridge railings of steel; columns of steel, iron, or pipe or cement-filled pipe; counterweight boxes for bridges; crane rails and stops; door frames constituting part of the steel framing; expansion joints connected to the steel frame; floor plates (checkered or smooth) connected to the steel frame; girders of steel; grillage beams and girders of steel; hangers of structural steel, if attached to the structural steel framing and shown on the framing plans; lintels shown on the framing plans or otherwise enumerated or scheduled; marquees (structural steel frame only); monorail beams of standard structural shapes; separators, angles, tees, clips and other detail fittings essential to the structural steel frame; suspended ceiling supports of structural shapes 3" or greater in depth; shop rivets, permanent shop bolts, bolts required to assemble parts for shipment and shop welds; struts; tie, hanger and sag rods forming part of the structural steel frame; and trusses.

"The following products are specifically excluded: grille work, fences and gates, stairs, staircases, fire escapes, railings, open steel flooring, prefabricated and portable metal buildings and parts (if primarily of light gauge metal), metal plaster bases, bar joists, and concrete reinforcing bars."

The first issue defined in the notice of hearing is "the propriety of the proposed definition of the industry." The first item of testimony it "particularly" invites of each witness is the "identity of any product not now included in the definition of the industry which should be included and of any product now included which should not be included."

It became apparent from the testimony of the witness from the Bureau of Labor Statistics that the wage data were collected on a basis which includes the structural components mentioned in the definition when they are made "of other metals," as well as when they are made of "iron and steel." The Public Contracts Division witness then recommended revised terminology for the definition of the industry which makes it clear that it includes such nonferrous structural fabrications. On the basis of a negotiated clarification of the revised terminology, it was stipulated by all of the parties at the hearing that this definition was acceptable, reserving only a contention by the employers that it should be amended to exclude the named structural steel items when they are galvanized (mainly for use in constructing power transmission towers).

However, a group of approximately 173 employers in the industry who were represented at the hearing and identifying themselves as the Structural Steel Fabricators Committee, have filed post hearing objections to the inclusion of the structural fabrications which are manufactured from metals other than iron and steel on the ground that the definition in the notice of hearing does not include them and that a definition considered at an earlier, informal panel conference does not include them. This group also seeks to exclude the structural steel components expressly included in the definition in the notice of hearing when they are galvanized, and protests the hearing examiner's exclusion of testimony relating to whether they were included in a definition of the industry considered at the panel conference.

In view of the express provision in the notice of hearing presenting an issue and inviting testimony whether items not in the proposed definition should be included in the industry for which prevailing minimum wages are sought to be determined, and the evidence here that not more than 2 or 3 percent of the products of the industry are made of metals other than iron or steel, neither the notice of hearing nor the consultation at the earlier, informal panel conference are determinative of the issue tendered by the notice. This is abundantly clear in the face of the applicable statutory requirement that the issues be resolved on the record as made, after agency hearing upon formal public notice.

The hearing examiner was clearly correct in holding that in the circumstances the policy required by the Administrative Procedure Act to exclude irrelevant and immaterial evidence and the responsive published rules of procedure applicable to these proceedings were effective to limit evidence on this issue at the hearing to the merits of the definitions there proposed, and no others.

The definition of the industry in the notice of hearing includes the items which the fabricators' committee would exclude whenever they are galvanized to conform to particular contract specifications. These products are made of the metals (iron and steel) expressly mentioned in the definition presented by the notice and are the exact shapes named in that definition. The definition presents no additional requirements for inclusion, and there is no exclusion based on the method of finishing these products, whether by galvanizing or otherwise. The named structural shapes which are not clearly within the definition in the notice of hearing, but which are clearly within the definition recommended by the Public Contracts Division are also recognized as an integral, although a very small portion of the products of the industry. The Standard Industrial Classification Manual, issued by the Office of the President for the guidance of the executive branch of the Government and others on problems of industrial classification, includes all of the products here in issue within one industry, No. 3441. The title of this industry, like the title of the industry defined in the notice of hearing, refers to steel but not to the nonferrous metals. The 1954 Census of Manufactures issued by the Department of Commerce follows this classification system in presenting statistics concerning the primary products of this specific industry. The same number, 3441, as a product code, includes product code 34411, "Fabricated structural iron and steel," which, in turn, includes product code 3441141, "For transmission towers, substations, and other galvanized structures," and product code

3441231 "Nonferrous metal" (Table 6A, Bulletin MC-34C, in evidence here as Industry Exhibit No. 2). Both of these products are also within the scope of the wage survey in evidence here. They are frequently made in the same plants as the items which make up the unchallenged bulk of the industry as here defined. They are not scheduled for inclusion in any other wage determination under this Act. For these reasons they will be included in the industry for the purpose of this tentative decision.

LOCALITY

The Structural Steel Fabricators Committee urges regional localities as geographic bases of any prevailing minimum wages to be determined in these proceedings. The Department of Labor tabulated the wage data separately by seven geographic regions at the request of the committee so that there would be a basis in evidence to make such separate determinations if the Committee should prevail on this issue. These regions are as follows:

Region I—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont

Region II—New Jersey, New York, Pennsylvania, and West Virginia

Region III—Alabama, Delaware, District of Columbia, Florida, Georgia, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia

Region IV—Illinois, Indiana, Kentucky, Michigan, Minnesota, Ohio, and Wisconsin

Region V—Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming

Region VI—Arkansas, Louisiana, New Mexico, Oklahoma, and Texas

Region VII—Arizona, California, Idaho, Nevada, Oregon, and Washington.

The Committee advocates this solution of the locality problem, except that it would move Wisconsin and Minnesota from Region IV to V. Labor, represented by the United Steelworkers of America, the International Association of Bridge, Structural, and Ornamental Iron Workers and the research department of the American Federation of Labor and Congress of Industrial Organizations, favors a determination of industry-wide application.

The committee's case for the seven regional localities is based on the contention that the structural steel industry is a local one. Freight rates are said to be important in determining the size of a fabricator's market area. The committee submitted a compilation of reports from 110 structural steel fabricating establishments indicating that 67 percent of their sales were within an area of 100 miles of the plant, 86 percent within 200 miles, and 96 percent within 300 miles. The committee concedes, however, that there are two fact situations which may expand a particular plant's ability to compete beyond the areas suggested by such figures.

The first situation which may expand a plant's competitive area arises from the fact that a piece of fabricated structural steel must be produced as a standard shape in a steel mill and move through a structural steel fabricator's plant before it reaches the construction site. The result is that structural steel fabrication plants located en route between the basic steel mill and the construction site may compete at least on even terms, so far as transportation cost is concerned, with others located closer to the construction site, and may even enjoy a freight rate advantage over plants located closer to, but on the opposite side of, the construction site.

The second fact which extends the area in which individual structural steel fabricators may compete arises from the advantage some of them may have through special facilities in their plants which may be necessary or helpful in the fabrication required to fill particular types of orders. For example, there is evidence here that only approximately 20 structural steel fabricators are equipped with facilities to galvanize their products, and galvanized structural steel for the construction of power transmission towers accounts for a substantial portion of the production in this industry which is subject to the Act.

The net results of these restrictive and expansive forces on the area of competition for Government contracts in this industry is illustrated in the tables analyzing the origins and destinations contemplated by the successful and unsuccessful bids for Walsh-Healey contracts in this industry. The seven areas or regions originally suggested by the Structural Steel Fabricators Committee as the most appropriate localities for separate wage determinations are adverted to for this analysis. These tables show keen competition for the Government business, with over five bids for the average award. There were more than twice as many bids for delivery outside the area where the goods were to be made as there were for delivery within that area, and one and a half times as many awards for delivery outside the area of production as there were for delivery within that area. Plants in three of the areas bid for delivery in all of the other areas as well as within their own; in no event did plants in any area bid for delivery in fewer than four other areas than their own. Not one area satisfied its demands for structural steel under Walsh-Healey contracts solely with productive facilities within the area. Under these circumstances none of the suggested areas is free from substantial competition for Government contracts from other areas and the regional insularity suggested by the committee is without adequate support in the evidence. I therefore find that the locality in which structural steel will be fabricated under contracts subject to the Act cannot be defined more narrowly than all that area in which the industry has its plants.

WAGES

The most significant evidence of the wages paid in the structural steel industry is a wage survey made by the Bureau of Statistics. It is a sample survey. Data obtained from a scientifically selected sample of 275 establishments employing a total of 54,668 workers, including 39,232 "covered" workers (because they would be protected by the minimum wage stipulation while engaged on work subject to the Act) are projected by generally accepted statistical practices to describe the relevant pay practices in an estimated total of 548 establishments, employing 75,330 total workers and 53,008 covered workers.

The reporting establishments revealed the essential data with the "understanding that the replies would be held in confidence and that information identified by company name would be seen only by sworn employees of the Bureau of Labor Statistics." The questionnaires were devised, and the responses used, for the dual purpose of providing the basic wage data for the minimum wage survey for specific use in this proceeding and also BLS Report No. 123, published in January 1958, "Wage Structure, Fabricated Structural Steel," as part of its regular Wage Structure Series.

The State Unemployment Compensation Offices' lists of plants in Standard Industrial Classification Industry No. 3441 were selected as the beginning point, because they were deemed to constitute the most complete and reasonably current census which included all of the industry as here defined. It was recognized that these lists include establishments producing certain ornamental metal products which are not within the industry as here defined. These lists give the name, location, product classification and total employment of each establishment. The State statutes, regulations, and administrative policies make the lists available to the Bureau only on a confidential basis.

The plants on the list were classified by geographic location by size because experience has demonstrated these criteria to have a significant relationship to plant wage structures. A sample was selected which contained more than half of the total group of plants, employing more than two-thirds of the total employment ultimately found to be in the estimated total for the industry. This was accomplished by random choice of portions of each classification, designed to include a substantial number in each, and all of the largest plant size classifications. Field representatives were used exclusively in the collection of the data. The replies gave precise data as to plant major product, which permitted statistically sound inferences as to the number of plants and employees in each classification, and in Standard Industrial Classification Industry 3441 as a whole, which were also within the industry as here defined. Plants thus found to be within the industry as here defined, but not actually studied, are represented in the several tables in the survey by attributing to them the pertinent data reported by the plants actually studied in their respective classifications.

The committee protests the refusal of the hearing examiner to force disclosure of the state unemployment compensation office lists, the list of establishments in the industry which were actually studied, and the list of establishments not actually studied which were estimated to be in the industry. There is, of course, no way the hearing examiner could have forced disclosure of the list of establishments estimated to be in the industry, because, under the sample survey technique above described, no such list

was ever developed. The hearing examiner correctly declined to force disclosure of the state unemployment compensation office lists and the list of establishments actually studied, because there was no showing of relevance between these lists and any of the subjects and issues identified in the notice of hearing. This action was also correct because there was no application for subpoena to require such disclosure as provided in 41 CFR 203.19.

In order to limit the survey to reasonable scope, establishments with fewer than 25 employees were excluded. These account for only an insignificant portion of the industry's employment and production. The committee contends that man-hours of employement presumably within some limited period, would have been a better way to isolate the plants too small for inclusion in the survey. The committee reasons that one plant might produce more than another even if the first plant had a slightly smaller number of employees if they worked a greatly larger number of hours. While that is mathematically possible, the use of man-hour criteria to simplify the survey by eliminating the very small plants would have defeated its purpose. It would have required some survey of each small plant to make the complex man-hour count. Total employment figures for each plant were available to the Department from the State unemployment compensation office lists. Total employment could be used as a basis for excluding the very small plants without expending effort on them, whereas the man-hours test would have resulted in the anomalous procedure of surveying each of the small plants to determine whether it was large enough to justify the expenditure of time required to survey it.

The survey is criticized because the basic data were collected for use in the Bureau's regular Wage Structure Series as well as for use in these proceedings. This objection is without merit. Obviously the data does not become less useful or adequate for this purpose merely because it is also used for other purposes. Neither is there merit in the criticism of this survey on the ground that the survey of the paint and varnish industry extended to a larger portion of the establishments in that industry. The question is whether the selection and size of the sample here is adequate. I am persuaded by the expert testimony in this record that it is.

A certified public accountant not shown to have any experience in wage survey work or sampling based on the application of the mathematical principles of probability gave his opinion that such principles could not be used to impute wage characteristics to the establishments from which wage information was not received. On the other hand, two experts in this particular type of work with long experience in it in the Bureau of Labor Statistics testified to the soundness of the techniques here applied. Upon consideration of all of the evidence on this point, I find that the sampling technique can be, and was here, rightly applied to produce the tables of relevant wage data which are representative of the minimum wages in this industry as of the survey date.

The findings and conclusions proposed by the Structural Steel Fabricators' Committee do not include a recommendation as to the prevailing minimum wage. At the hearing the committee recommended varying rates for the seven regions, but these lose pertinence in view of the finding, supra, that there is industry-wide competition for Government contracts in this industry, which requires an industry-wide prevailing minimum wage determination.

The committee does recommend a wage differential for learners and probationers of seven cents per hour for a period of three months. The only reason assigned for this recommendation is reference to a table in the wage survey, giving an anonymous statistical comparison of the responses of the several plants in the industry as to their policies, not necessarily accompanied by recent practice, as to time intervals required for employees to progress from a minimum entrance rate to a minimum job rate, and the money differential between such policy rates. But this table establishes that 53 percent of the plants, employing 64 percent of the covered employees, must be counted as reporting no such policy.

The unions oppose any separate determination or tolerance for learners and probationers. The only evidence in this record of the extent of actual employment in these classifications shows that 69 percent of the establishments employing 61 percent of the covered workers in this industry employ no learners or probationers as those terms have been defined in the wage survey here. Only 1 percent of the employment in the industry is in this classification, and even this tiny figure exaggerates the problem. The definition extends to a group much larger than is appropriate for consideration in measuring the need for providing one minimum wage for learners and probationers and another for experienced workers. That is because they are "defined as new employees hired at a rate lower than the rate established for a specific job during the time required to receive orientation or initial training for that job." This definition is not restricted to the learners and probationary workers who earn less than the lowest wage paid experienced employees; it includes "new employees hired at a rate lower than the rate established" for the relatively highly skilled and better paid occupations in the industry "during the period of time required to receive orientation or initial training" for those jobs. Such employees frequently earn as much or more than the experienced workers in the lowest labor grade. For example, four of the plants pay all of their covered workers classified as learners or probationary workers $2.30 per hour and over, whereas no plants have a minimum wage that high for other covered workers. I find, therefore, that there is no need for a special rate for learners and probationers in this industry, and no satisfactory basis in evidence on which to predicate one.

To be sure that the covered workers who are learners and probationers and who are actually paid less than experienced workers in the same plant are not overlooked in determining the prevailing minimum wage, reference will be made to the table which distributes establishments and workers by the lowest rate actually paid to any covered workers, including learners and probationary workers. The unions also base their recommendation on this table. They contend that $1.78 was the prevailing minimum wage during the pay period covered by the survey, because establishments employing a majority of the covered workers paid none of them less. On the other hand, it could be contended that no minimum wage in excess of $1.64 can be described as actually prevailing in this industry on that date, because a majority of the establishments in the industry actually paid a minimum wage of less than $1.65.

Where, as here, there is no single minimum wage which is paid by most, or even a substantial portion of the industry, statistical guides must be relied upon in the selection of a wage which can be said to be prevailing because it is most representative of minimum wage practice in the industry viewed as a whole. Median points, such as those before discussed are generally adverted to for guidance. Where, as here, they suggest wages which are not in close approximation, a minimum wage lying between the two commands a better balance between establishments and employees than either of the extremes, and offers the most appropriate solution of the problem. One dollar seventy cents is such a point here. Fifty-eight percent of the total covered employees in the industry work in 46 percent of its plants, where all covered workers were paid minimum wages of $1.70 per hour or more. I find, therefore, that $1.70 per hour was the prevailing minimum wage in the fabricated structural steel industry in March of 1957.

Finally, the unions urge that 12 cents per hour or more be added to the prevailing minimum developed from the wage survey. This is based on evidence of wage increases between the dates of the wage survey and hearing of from 4 to 40 cents per hour affecting the minimum wage in 370 out of the 548 total plants.

The Structural Steel Fabricators Committe objects to consideration of this evidence, because (1) the witness through whose testimony it was introduced did not personally prepare the exhibit, (2) it is not broken down to show the seven regions, and (3) it does not include the plants in the industry which do not operate under contract with a labor union. In view of the fact that the exhibit was prepared under the direction of the witness who identified it, the fact that he did not make or check each computation does not render it inadmissible. While it might affect the weight to be given it if there were any indication that it is inaccurate, the absence of such indication here leads me to accept it at face value. The fact that the exhibit does not segregate the wage

increase data into the seven regions is of no consequence in view of the decision to propose an industry-wide prevailing minimum wage.

That the exhibit treats only of the 370 plants in this industry which have contracts with a union rather than all 548 plants affects its weight rather than its clear pertinence on the issue of the prevailing minimum wage. Though the number of such plants is large, they do not encompass or represent the industry as a whole, in regard to post-survey wage increases.

Because the union plants alone may not be adverted to for the appropriate measure of the post-survey minimum wage increases in the industry as a whole, the 12 cent median plant wage increase among these 370 union plants, may not be treated as prevailing practice. However, even if the other 178 plants in the industry are regarded as having failed to increase their minimum wages in any amount since the wage survey, it still appears from the union exhibit that most of the plants in the industry have granted a post-survey minimum wage increase of 10 cents or more. This figure is not affected in any way even if it is assumed that each of the 178 nonunion plants granted the 9 cent per hour minimum wage increase that one of the union witnesses estimated they averaged. On the basis of all of the evidence, I find, therefore, that the prevailing minimum wage in this industry has increased 10 cents per hour from the $1.70 revealed by the wage survey, so that it is now $1.80 per hour.

Accordingly, upon the findings and conclusions stated herein, pursuant to authority under the Walsh-Healey Public Contracts Act (49 Stat. 2036; 41 U.S.C. sec. 35 et seq.), and in accordance with the Administrative Procedure Act (60 Stat. 237; 5 U.S.C. 1001), notice is hereby given that I propose to amend 41 CFR, Part 202 by adding a new section as follows:

§ 202.55 Fabricated structural steel industry.

(a) *Definition.* The fabricated structural steel industry is defined as that industry which fabricates the following items of iron, steel or other metals for structural purposes: anchors; bases; beams, purlins, girts; bearing plates; bearing shoes for bridges; bracing; brackets; bridge pins; bridge railings; columns, including those of pipe or cement filled pipe; counterweight boxes for bridges; crane rails and stops; door frames constituting part of the structural framing; expansion joints connected to the structural frame; floor plates (checkered or smooth) connected to the structural frame; girders; grillage beams and girders; hangers, if attached to the structural framing and shown on the framing plans; lintels shown on the framing plans or otherwise enumerated or scheduled; marquees (structural frame only); monorail beams of standard structural shapes; separators, angles, tees, clips and other detail fittings essential to the structural frame; suspending ceiling supports of structural shapes 3 inches or greater in depth; shop rivets, permanent shop bolts, bolts required to assemble parts for shipment and shop welds; struts; tie, hanger and sag rods forming part of the structural frame; and trusses. Excluded is the manufacture of architectural ornamental work such as grille work, fences and gates, stairs, staircases, fire escapes, railings, and open-steel flooring; prefabricated and portable metal buildings and parts (if primarily of light-gauge metal); metal doors, sashes, frames, molding, and trim; metal plaster bases; bar joists; concrete reinforcing bars; basic metal structural shapes such as those manufactured by steel works and rolling mills; and fabrication work done by construction contractors at the site of construction.

(b) *Minimum wage.* The minimum wage for persons employed in the manufacture or furnishing of products of the fabricated structural steel industry under contracts subject to the Walsh-Healey Public Contracts Act shall be not less than $1.80 an hour arrived at either on a time or incentive basis.

(c) *Effect on other obligations.* Nothing in this section shall affect any obligations for the payment of minimum wages that an employer may have under any law or agreement more favorable to employees than the requirements of this section.

Within fifteen days from the date of publication of this notice in the FEDERAL REGISTER, interested persons may submit exceptions to the tentative decision above set out. Exceptions should be addressed to the Secretary of Labor, United States Department of Labor, Washington 25, D.C.

Signed at Washington, D.C., this 19th day of March 1959.

JAMES P. MITCHELL,
Secretary of Labor.

[F.R. Doc. 59-2582; Filed, Mar. 26, 1959; 8:47 a.m.]

NOTICES

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circ. 570, Rev. Apr. 20, 1943, 1959, Supp. 202]

ATLAS INSURANCE CO.

Surety Companies Acceptable on Federal Bonds

MARCH 23, 1959.

A Certificate of Authority has been issued by the Secretary of the Treasury to the following company under the Act of Congress approved July 30, 1947, 6 U.S.C. sections 6–13, as an acceptable surety on Federal bonds.

An underwriting limitation of $201,000.00 has been established for the company. Further details as to the extent and localities with respect to which the company is acceptable as surety on Federal bonds will appear in the next issue of Treasury Department Form 356, copies of which, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Surety Bonds Branch, Washington 25, D.C.

State in Which Incorporated, Name of Company, and Location of Principal Executive Office

NEBRASKA

Atlas Insurance Company, Lincoln.

[SEAL] JULIAN B. BAIRD,
Acting Secretary of the Treasury.

[F.R. Doc. 59-2601; Filed, Mar. 26, 1959; 8:50 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

MEMBER LINES OF PACIFIC WESTBOUND CONFERENCE ET AL.

Notice of Agreements Filed for Approval

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

(1) Agreement No. 57–71, between the member lines of the Pacific Westbound Conference and Peninsular and Oriental Steam Navigation Company, provides for the admission of Peninsular and Oriental to associate membership in that conference (Agreement No. 57, as amended). As an associate member, Peninsular and Oriental will be obligated to abide by all the rates, rules, regulations and decisions of the conference; will have no vote in conference affairs; will be permitted to participate in conference contracts with shippers; and will be exempt from posting of the usual surety bond required of regular members.

(2) Agreement No. 8067–1, between Oranje Lijn (Maatschappij Zeetransport) N.V., and the carriers comprising the Fjell Line joint service, modifies approved sailing and pooling arrangement of the parties (Agreement No. 8067), in the trades between the Great Lakes of the United States and Canada, the St. Lawrence River and Seaway, Newfoundland and the Canadian Maritimes, on the one hand, and the United Kingdom, and ports in the Bordeaux/Hamburg and Scandinavian Ranges, on the other. The purpose of the modification is (1) to include the trade between ports of the Great Lakes of the United States and

Canada, the St. Lawrence River and Seaway, Newfoundland and the Canadian Maritimes, on the one hand, and ports of the Mediterranean and adjacent Seas, on the other hand, within the scope of the agreement, and (2) to provide that in the event Fjell and Oranje, either separately or as one party, participate in a pooling arrangement with other carriers, the total participation of Fjell and Oranje under such arrangement shall be considered as part of the total result under Agreement No. 8067, as amended.

(3) Agreement No. 8361, between Montship Lines Limited and Gestioni Esercizio Navi-G.E.N., covers the establishment and maintenance of a joint cargo service under the trade name "Montship-Capo Great Lakes Service", in the trade between ports on the Great Lakes of the United States, on the one hand, and ports in the Mediterranean Sea, Iberian Peninsular and North Africa, on the other hand, and in trades between, not including transportation within the purview of the coastwise laws of the United States. Agreement No. 8361, upon approval, will supersede and cancel approved joint service Agreement No. 8069, between Montship Lines Limited and Gestioni Esercizio Navi Sicilia—G.E.N.S., in the same trade.

(4) Agreement No. 8362, between the carriers comprising the A. P. Moller-Maersk Line joint service and Farrell Lines Incorporated, covers a through billing arrangement in the trade between Harbel, Liberia, and Cape Palmas, Liberia, on the one hand, and U.S. Pacific Coast ports, on the other hand, with transhipment at Monrovia, Liberia.

(5) Agreement No. 8363, between United States Lines Company and American President Lines, Ltd., covers a through billing arrangement on general cargo in the trade between Europe and Guam, with transhipment at New York.

(6) Agreement No. 8364, between the carriers comprising the Hoegh Lines joint service and Alcoa Steamship Company, Inc., covers a through billing arrangement on general cargo in the trade from Colony of Singapore, Federation of Malaya, Indonesia, Ceylon, India, French Somaliland, Egypt and Eritrea to Puerto Rico, with transhipment at New York, Baltimore, New Orleans or Mobile.

(7) Agreement No. 8366, between the carriers comprising the Hoegh Lines joint service and Alcoa Steamship Company, Inc., covers a through billing arrangement on general cargo in the trade from Colony of Singapore, Federation of Malaya, Indonesia, Ceylon, India, French Somaliland, Egypt and Eritrea to the Virgin Islands, with transhipment at New York, Baltimore, New Orleans or Mobile.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to any of these agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

By order of the Federal Maritime Board.

Dated: March 24, 1959.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 59-2599; Filed, Mar. 26, 1959; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[No. 59-11]

OREGON

Notice of Proposed Withdrawal and Reservation of Lands

MARCH 19, 1959.

The State Supervisor, Bureau of Land Management, State of Oregon, has filed an application, Serial No. Oregon 06398, for the withdrawal of the lands described below, subject to valid existing rights, from all forms of appropriation under the public land laws including the general mining laws, but excepting the mineral leasing laws, grazing of livestock under the Taylor Grazing Act (48 Stat. 1269) as amended, and disposal of materials as provided for in the act of July 31, 1947 (61 Stat. 681; 43 U.S.C. 1185), as amended.

The applicant desires the land for a stock driveway in order that State Highway #31 (Fremont Highway), in the area described, may be kept free of any movement of stock in the interest and protection of the traveling public.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 809 Northeast Sixth Avenue, Portland 12, Oregon.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary of the Interior on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

WILLAMETTE MERIDIAN, OREGON

LAKE COUNTY, GRAZING DISTRICT NO. 1

T. 33 S., R. 18 E.,
Sec. 7: E½NE¼, SW¼NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼,
Sec. 8: W½NE¼, SE¼NE¼, N½NW¼,
Sec. 9: Lots 4, 5, 6, 7, 8,
Sec. 10: W½SW¼, SE¼SW¼, S½SE¼,
Sec. 13: N½S½, SW¼SW¼,
Sec. 14: S½NE¼, NW¼, NE¼SE¼,
Sec. 15: N½NE¼.

Approximately 1,340.17 acres.

VIRGIL T. HEATH,
State Supervisor.

[F.R. Doc. 59-2577; Filed, Mar. 26, 1959; 8:46 a.m.]

National Park Service

[Order 14, Amdt. 13]

VARIOUS OFFICIALS

Delegations of Authority

MARCH 20, 1959.

Paragraph (d) of section 1 of Order No. 14, issued December 1, 1954 (19 F.R. 8824), is amended to read as follows:

(d) Appointments and status changes involving personnel in GS-14 and higher grades, and superintendents in all grades. However, appointments and status changes involving grade GS-13 must be submitted to the Washington Office for review before being finalized.

(Secretary's Order No. 2640, as amended; 5 U.S.C., sec. 22)

[SEAL] CONRAD L. WIRTH,
Director.

[F.R. Doc. 59-2578; Filed, Mar. 26, 1959; 8:46 a.m.]

[Carlsbad Caverns National Park Order 1]

ADMINISTRATIVE ASSISTANT

Delegation of Authority to Execute and Approve Certain Contracts

FEBRUARY 20, 1959.

SECTION 1. *Administrative Assistant.* The Administrative Assistant may execute and approve contracts not in excess of $25,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriations.

(National Park Service Order No. 14; 39 Stat. 535, 16 U.S.C., 1952 ed., sec. 2. Region Three Order No. 3)

O. W. CARLSON,
Superintendent,
Carlsbad Caverns National Park.

[F.R. Doc. 59-2579; Filed, Mar. 26, 1959; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 10093]

NATIONAL-PANAGRA INTERCHANGE; ACCOUNTING INVESTIGATION

Notice of Reassignment of Hearing

In the matter of the proper reporting under the Uniform System of Accounts of certain flight equipment employed in the National-Panagra Interchange involving service between New York and Latin America.

Reference is hereby made to the notice of hearing issued in the above-entitled matter on March 11, 1959.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, that the date for public hearing heretofore assigned in the aforesaid notice in the above-entitled proceeding is hereby reassigned to be held on April 23, 1959, at 10:00 a.m., local time, in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washing-

ton, D.C., before Examiner Edward T. Stodola.

Dated at Washington, D.C., March 23, 1959.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 59-2610; Filed, Mar. 26, 1959; 8:51 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

VARIOUS OFFICIALS

Amendment of Delegation of Authority to Execute Certain Documents and Functions

By virtue of the authority vested in the undersigned (23 F.R. 1452), the delegations of authority and assignment of functions (23 F.R. 5931) currently in effect are hereby amended by deleting therefrom the provisions in paragraph numbered 3 thereof and substituting therefor the following, and by adding a new paragraph numbered 5:

3. The notification, required by the general regulations in § 900.4(b)(1)(iv), (23 F.R. 4027), to such officials as the Deputy Administrator has determined shall be notified, is authorized to be performed and shall be performed (a) as to marketing orders supervised by the Fruit and Vegetable Division, by the Director, Deputy Director, or appropriate Branch Chief thereof, and (b) as to marketing orders supervised by the Dairy Division, by the Director or Docket Clerk thereof. The person performing such notification shall execute the appropriate affidavit or certificate as therein prescribed. Until amended by the Deputy Administrator, a determination of officials to be notified shall remain effective for later hearings on such order.

* * * * *

5. As used herein, the terms "orders" and "marketing orders" include marketing agreements.

Done at Washington, D.C., this 23d day of March 1959, to become effective upon publication in the FEDERAL REGISTER.

H. C. FEDDERSEN,
Acting Director, Dairy Division, Agricultural Marketing Service.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 59-2613; Filed, Mar. 26, 1959; 8:52 a.m.]

Commodity Stabilization Service

[Amdt. I]

MONTANA

Notice of Establishment of Areas of Venue for Marketing Quota Review Committees

Pursuant to section 3(a)(1) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1002) which requires that the field organization be published in the FEDERAL REGISTER and § 711.11 of the Marketing Quota Review Regulations (21 F.R. 9365, 9716), which provides for establishment of areas of venue for marketing quota review committees, notice is hereby given of areas of venue for the State of Montana established by the ASC State Committee as follows:

MONTANA

Counties of:

Area I—Dear Lodge, Flathead, Granite, Lake, Lincoln, Mineral, Missoula, Powell, Ravalli, Sanders, Silver Bow.

Area II—Cascade, Chouteau, Glacier, Hill, Liberty, Pondera, Teton, Toole.

Area III—Blaine, Daniels, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley.

Area IV—Beaverhead, Broadwater, Gallatin, Jefferson, Lewis and Clark, Madison, Meagher.

Area V—Carbon, Fergus, Golden Valley, Judith Basin, Park, Stillwater, Sweet Grass, Wheatland.

Area VI—Big Horn, Garfield, Musselshell, Petroleum, Rosebud, Treasure, Yellowstone.

Area VII—Carter, Custer, Dawson, Fallon, Powder River, Prairie, Wibaux.

(Sec. 3, 60 Stat. 238; 5 U.S.C. 1002. Interprets or applies sec. 363, 52 Stat. 63, as amended; 7 U.S.C. 1363)

Done at Washington, D.C., this 20th day of March 1959. Witness my hand and the seal of the Department of Agriculture.

[SEAL] WALTER C. BERGER,
Administrator, Commodity Stabilization Service.

[F.R. Doc. 59-2614; Filed, Mar. 26, 1959; 8:52 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 12742, 12743; FCC 59M-359]

GRANITE CITY BROADCASTING CO. AND CUMBERLAND PUBLISHING CO. (WLSI)

Order Continuing Hearing Conference

In re applications of Selbert McRae Wood, Clagett "Woody" Wood, Tycho Heckard Wood and Paul Edgar Johnson, d/b as Granite City Broadcasting Company, Mount Airy, North Carolina, Docket No. 12742, File No. BP-11811; Cumberland Publishing Company (WLSI), Pikeville, Kentucky, Docket No. 12743, File No. BP-11997; for construction permits.

On the Examiner's own motion: *It is ordered,* This 20th day of March 1959, that the prehearing conference in the above-entitled proceeding, presently scheduled for March 23, 1959, at 9:00 a.m., is hereby continued to a date to be set by subsequent order.

Released: March 20, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-2602; Filed, Mar. 26, 1959; 8:50 a.m.]

[Docket Nos. 12751, 12752; FCC 59M-367]

MALRITE BROADCASTING CO. AND DALE WINDNAGEL

Order Continuing Hearing Conference

In re applications of Milton Maltz and Robert Wright, d/b as Malrite Broadcasting Co. Tiffin, Ohio, Docket No. 12751, File No. BP-11448; Dale Windnagel, Oak Harbor, Ohio, Docket No. 12752, File No. BP-11953; for construction permits.

On the Hearing Examiner's own motion and with the concurrence of all counsel in the above-entitled proceeding: *It is ordered,* This 23d day of March 1959, that the further prehearing conference, presently scheduled herein for March 27, 1959, at 2:00 o'clock p.m., be, and the same is hereby, continued to March 30, 1959, at 10:00 o'clock a.m. in the Commission's offices, Washington, D.C.

Released: March 24, 1959.

FEDERAL COMMUNICATIONS COMMISSION.
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-2603; Filed, Mar. 26, 1959; 8:50 a.m.]

[Docket No. 12783; FCC 59M-350]

SUSSEX COUNTY BROADCASTERS (WNNJ)

Order Scheduling Prehearing Conference

In re application of Robert A. Mensel, William Fairclough, Simpson C. Wolfe, Jr. and Naomi E. Wolfe, d/b as Sussex County Broadcasters (WNNJ), Newton, New Jersey, Docket No. 12783, File No. BP-11716, for construction permit.

On the Hearing Examiner's own motion: *It is ordered,* This 19th day of March 1959, that all parties, or their counsel, in the above-entitled proceeding are directed to appear for a prehearing conference pursuant to the provisions of § 1.111 of the Commission's rules, at 10:00 o'clock a.m., on Wednesday, April 1, 1959, in the offices of the Commission, Washington, D.C.

Released: March 19, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-2604; Filed, Mar. 26, 1959; 8:50 a.m.]

[Docket No. 12810; FCC 59-216]

UNITED BROADCASTING CO. (KEEN)

Memorandum Opinion and Order Designating Application for Oral Argument

In re application of United Broadcasting Company (KEEN), San Jose, California, Requests: 100.3 Mc, 3 kw, -150 ft., Docket No. 12810, File No. BPH-2553; for contruction permit.

1. The Commission has before it for consideration a "Protest" filed on February 19, 1959, pursuant to section 309(c) of the Communications Act of 1934, as amended, by Standard Radio and Television Company, licensee of television station KNTV, San Jose, California (Channel 11, 14.2 dbk, 2,770 ft.) (KNTV, hereinafter) and directed to the Commission's action of January 21, 1959 in granting without hearing the above-captioned application of United Broadcasting Company (KEEN, hereinafter) for a construction permit for a new FM station, (KEEN) at San Jose, California.

2. KNTV requests that the Commission (1) designate the KEEN application for hearing on issues specified by KNTV and other issues as may be specified by the Commission, (2) make KNTV a party to the hearing, and (3) postpone the effective date of the KEEN grant to the effective date of a decision after hearing.

3. KNTV claims that it is a "party in interest" within the meaning of section 309(c) to have standing to file its instant protest pursuant thereto. This claim is based upon the allegations that it is licensee of "television broadcast station KNTV at San Jose, California"; and that KEEN "will be in direct competition with KNTV [because] it will serve the same area and seek advertising revenues in the same area."

4. In support of its contention that the KEEN grant was improperly made and otherwise is not in the public interest, KNTV alleges that "extensive, objectionable interference to the KNTV picture" will result from second harmonic relationship between KEEN and KNTV.

5. In a petition filed on January 5, 1959, KNTV opposed a grant of the KEEN application on the same ground. On January 21, 1959, the Commission adopted a letter in which it denied the KNTV petition for the reasons set forth in the letter and, on the same date, granted the KEEN application.

6. KNTV states in its instant pleading that the Commission took the position that the utilization of limited spectrum space should not be restricted because interference assumed primarily is a result of deficiencies in receiver design where such deficiencies can be overcome by reasonable and practicable means; and that "it is the position of the Protestant [KNTV] that there are no reasonable means to overcome interference to the existing KNTV television service."

7. KNTV further states that "there is a public interest factor overlooked by the Commission"; that the Commission's above-described conclusion "is sufficiently important to the preservation of the only locally-originated television service at San Jose to warrant exploration in a public hearing"; that the "Commission was in possession of all the facts regarding receiver design at the time it established its television allocation plan and presumably took into account those facts in providing communities with a television service"; that an exhaustive study shows that the KEEN signal "will be received by television antennas oriented toward San Francisco and will therefore discriminate against the KNTV signal which arrives from practically an opposite direction"; and that the Commission should consider reception as it exists on sets now in use in the area in question, instead of relying on the fact that many of these sets are not properly designed to reduce second harmonic interference.

8. KNTV specifies the following issues on which it desires an opportunity to present evidence at a hearing:

(1) To determine the areas and populations within the Grade A and Grade B contour of Station KNTV which may reasonably be expected to receive objectionable interference as a result of the operation of the FM station specified by United Broadcasting Company, San Jose, California, File No. BPH-2553.

(2) In the event of proof under issue (1) above shall establish that objectionable interference will result to station KNTV, to determine if such interference is primarily a result of deficiencies in normal set-in-use receiver design which can be overcome by reasonable and practical means or whether it is more reasonable and practical to eliminate such interference by making changes in the FM station's assignment of frequency or transmitter location or both.

9. KNTV requests that the effective date of the KEEN grant be postponed until the date of a decision in a hearing on the KEEN application. KNTV alleges that there is no need for service by KEEN since already "there is a plethora of aural service available to the San Jose area."

10. In view of the facts that the protestant herein is licensee of television station KNTV, San Jose, California, where KEEN proposes to operate; and alleges that both stations will compete in San Jose for advertising revenue; and that KNTV will suffer economic injury from the proposed operation of KEEN, we find that KNTV is a "party in interest" within the meaning of section 309 (c) of the Communications Act of 1934, as amended, to have standing to file its instant protest pursuant thereto. In re T. E. Allen and Sons, Inc., 9 Pike and Fischer RR 197; FCC v. Sanders Brothers Radio Station, 309 U.S. 470 (9 Pike and Fischer RR 2008).

11. We consider next the allegations by KNTV that it would receive from KEEN interference resulting from second harmonic radiation. KEEN-FM proposes to use a Gates Type FM-1B, 1-kw transmitter which has been type accepted by the Commission. According to data submitted by the Gates Company, this transmitter, with the filter which is a part of the transmitter, provides 71 db suppression of the second harmonic. Section 3.317(f)(2) of the Commission rules does not specify a minimum value for the suppression of harmonic radiation; however, a minimum of 60 db suppression is considered necessary to meet the requirements of this rule. The suppression in this case exceeds this requirement. At the center of San Jose KNTV's signal is approximately 30 mv/m. With the above-mentioned 71 db suppression, and a 20 db discrimination against KNTV's signal in favor of the second harmonic of KEEN-FM, the second harmonic will be approximately 70 db below KNTV's fundamental signal at the center of San Jose. This level should not produce any interference. Some television receivers near the KEEN-FM transmitter may receive interference caused by overloading by the fundamental signal of KEEN-FM, generating second harmonic interference within the set. Generation of such spurious frequencies internally is caused by lack of selectivity, which is a problem of set design. Such interference is generally found close to the FM transmitter site where high signal levels exist; however, it should be noted that in this case there are only 65 homes within one-half mile of the KEEN-FM transmitter site. A wave trap installed at the antenna terminals of television receivers and tuned to the KEEN-FM fundamental frequency (100.3 megacycles) can be expected to provide relief. There are now 51 FM stations on the air in the United States operating on frequencies which have their second harmonics falling in VHF channels assigned to television stations operating in the same area. Interference has been noted in a few cases; however, second harmonic radiation generally becomes a problem when the TV station is providing a fringe area service; such is not the case in San Jose.

12. Thus, we are of the opinion that, if the type of interference here claimed by KNTV should result, it would be a consequence, not of the operation of KEEN as authorized by the grant in question, but, primarily, of spurious emissions generated in television receivers due to overloading by the KEEN-FM signal, relief from which could be expected by installation of a wave trap at the antenna terminals of television receivers, and tuned to the KEEN-FM fundamental frequency (100.3 Mc). Accordingly, it appears that even if the facts here alleged by KNTV were to be proven, no grounds for setting aside the KEEN grant have been presented. Therefore, we will designate the KEEN application for hearing, affording KNTV an opportunity for oral argument as to whether it has presented valid grounds for setting aside the KEEN grant.

13. Inasmuch as there are two FM stations already licensed to serve San Jose, California, we cannot make an affirmative finding that the public interest requires our keeping the KEEN grant in effect pending a decision in the hearing ordered below.

14. In view of the foregoing: *It is ordered,* That pursuant to section 309(c) of the Communications Act of 1934, as amended, KNTV's instant protest is granted to the extent provided for below and, in all other respects is denied; that the above-captioned application is designated for oral argument at the offices of the Commission in Washington, D.C., on the question of whether, if the facts alleged in the protest were to be proven, grounds have been presented for setting aside the grant of said application; and that the effective date of the said grant is postponed pending a decision herein after oral argument.

15. *It is further ordered,* That the protestant is hereby made a party to the proceeding herein and that:

(1) The oral argument shall commence at 10:00 a.m. on April 24, 1959, and shall be held before the Commission en banc;

(2) The parties intending to participate in the oral argument shall file their appearances not later than April 14, 1959;

(3) The parties to the proceeding have until the date of the oral argument to file briefs or memoranda of law.

Adopted: March 23, 1959.

Released: March 24, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-2605; Filed, Mar. 26, 1959; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-16841, G-16842]

MIDWESTERN GAS TRANSMISSION CO. AND TENNESSEE GAS TRANSMISSION CO.

Order Waiving Intermediate Decision Procedure Setting Date for Oral Argument and Setting Date for Filing Briefs

MARCH 20, 1959.

On March 10, 1959, at the conclusion of the hearing in the above-captioned proceedings, counsel for Midwestern Gas Transmission Company (Midwestern) and Tennessee Gas Transmission Company (Tennessee Gas), Applicants herein, moved on the record that the intermediate decision procedure be waived.

In support of such motion Applicants' counsel stated that in order to commence service by the 1959-60 winter season a certificate should issue no later than May 1, 1959. If a certificate is issued by May 1, 1959, Applicants' counsel stated that ditching cannot be expected to begin before late June 1959, and from three to six months' time is required by Midwestern to complete construction of pipe line facilities after ditching has commenced. Further, it is represented on the record that the area proposed to be served by Midwestern requires the additional service during the winter season 1959-60 if consumer demands are to be met adequately.

Except for National Coal Association, et al., the motion was unopposed on the record by counsel present.[1] Staff counsel took no position with respect to the motion.

As we indicated in our Opinion No. 316, issued October 31, 1958, in the matters of American Louisiana Pipe Line Company, et al., Docket Nos. G-2306, et al., it is our intent to expedite the handling and disposition of new applications which may be filed by any of the applicants in those proceedings, looking toward service in the midwestern area of the United States, consistent with the performance of and duties under section 7 of the Natural Gas Act. The applications of Midwestern and Tennessee are the first of new applications which have been filed. Consistent with the intent expressed in Opinion No. 316 and due to the early need for commencement of pipeline construction necessary to the commencement of service by the 1959-1960 winter season, the Commission considers that good cause has been shown for waiving the intermediate decision procedure and for allowing oral argument before the Commission.

The Commission finds:

(1) The due and timely execution of the Commission's functions imperatively and unavoidably requires the omission of the intermediate decision procedure.

(2) Good cause has been shown for waiving the intermediate decision procedure and for allowing oral argument before the Commission at the time hereinafter fixed.

(3) The time fixed by the presiding examiner for the filing of briefs should be revised as hereinafter ordered.

The Commission orders:

(A) The intermediate decision procedure in the above-entitled proceedings is hereby waived.

(B) Principal briefs shall be filed on or before March 24, 1959, and reply briefs shall be filed on or before April 7, 1959.

(C) Oral argument before the Commission shall be held on April 10, 1959, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. All parties desiring to participate in the oral argument shall inform the Secretary of the Commission in writing of the length of time desired for argument not later than April 1, 1959.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-2570; Filed, Mar. 26, 1959; 8:45 a.m.]

[1] The Manufacturers Light and Heat Company, et al., opposed the motion on the record, but by letter, dated March 16, 1959, withdrew such opposition.

[Docket No. G-18094]

SUN OIL CO.

Order for Hearing and Suspending Proposed Change in Rate

MARCH 23, 1959.

Sun Oil Company (Sun) on February 24, 1959, tendered for filing a proposed change in its presently effective rate schedule[1] for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated Februray 20, 1959.

Purchaser: Texas Eastern Transmission Corporation.

Rate schedule designation: Supplement No. 12 to Sun's FPC Gas Rate Schedule No. 32.

Effective date: March 27, 1959 (stated effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed increased rate, Sun cites the redetermination rate provisions of its contract with the purchaser and submits its own computation as to what the redetermined rate should be. The purchaser protests the proposed increased rate and denies that the same is payable under any of the provisions of the contract with Sun.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 12 to Sun's FPC Gas Rate Schedule No. 32 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 12 to Sun's FPC Gas Rate Schedule No. 32.

(B) Pending such hearing and decision thereon, said supplement be and it hereby is suspended and the use thereof deferred until August 27, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested state commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-2571; Filed, Mar. 26, 1959; 8:45 a.m.]

[1] Rate in effect subject to refund in Docket No. G-15010.

[Docket No. G-17987]

RUPP-FERGUSON OIL CO. ET AL.

Order for Hearing and Suspending Proposed Change in Rate

MARCH 20, 1959.

Rupp-Ferguson Oil Company (Operator) et al. (Rupp-Ferguson) on February 19, 1959, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge,

is contained in the following designated filing:

Description: Notice of change, dated February 17, 1959.
Purchaser: Colorado Interstate Gas Company.
Rate schedule designation: Supplement No. 24 to Rupp-Ferguson's FPC Gas Rate Schedule No. 3.
Effective date: April 1, 1959 (stated effective date is that proposed by Rupp-Ferguson).

In support of the proposed enclosed rate, Rupp-Ferguson cites the contractual obligation of the parties arrived at through arm's-length bargaining, and states that the proposed rate is equal to the market price for gas in the area.

The increased rate and charge so proposed has not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provision of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change and that Supplement No. 24 to Rupp-Ferguson's FPC Gas Rate Schedule No. 3 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 24 to Rupp-Ferguson's FPC Gas Rate Schedule No. 3.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until September 1, 1959, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-2572; Filed, Mar. 26, 1959; 8:45 a.m.]

[Docket No. G-17990]

CARTER OIL CO.

Order for Hearing and Suspending Proposed Change in Rate

MARCH 20, 1959.

The Carter Oil Company (Carter) on February 20, 1959, tendered for filing proposed changes in its presently effective rate schedules[1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of change, dated February 18, 1959.
Purchaser: (1) Natural Gas Pipeline Company of America. (2) Panhandle Eastern Pipeline Company.
Rate Schedule Designation: (1) Supplement No. 9 to Carter's FPC Gas Rate Schedule No. 35. (2) Supplement No. 5 to Carter's FPC Gas Rate Schedule No. 46.
Effective Date: March 23, 1959 (stated effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed periodic rate increase, as provided by Supplement No. 9 to Carter's FPC Gas Rate Schedule No. 35, Carter states that the increased price was part of the initial consideration under the contract which was arrived at through arm's length bargaining, and that the price is less than the going price in the area. Carter recites that the increase is necessary to encourage further exploration and development, and that without such periodic increases it would not have entered into the long-term contract.

In support of the proposed periodic rate increase, as provided by Supplement No. 5 to Carter's FPC Gas Rate Schedule No. 46, Carter states that it would not have entered into the contract without such a provision. Carter further states that the Natural Gas Pipeline Company of America is paying higher prices in the area and that Kansas-Nebraska is paying similar prices.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed changes, and Supplement No. 9 to Carter's FPC Gas Rate Schedule No. 35 and Supplement No. 5 to Carter's FPC Gas Rate Schedule No. 46 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed rates and charges contained in Supplement No. 9 to Carter's FPC Gas Rate Schedule No. 35 and Supplement No. 5 to Carter's FPC Gas Rate Schedule No. 46.

(B) Pending such hearing and decision thereon, said supplements are suspended and the use thereof deferred until August 23, 1959, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission (Commissioners Kline and Hussey dissenting).

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-2573; Filed, Mar. 26, 1959; 8:46 a.m.]

[1] Supplement No. 9 to Carter's FPC Gas Rate Schedule No. 35 is in effect subject to refund in Docket No. G-14667 and subject to order in Docket No. G-12208, and Supplement No. 5 to Carter's FPC Gas Rate Schedule No. 46 is in effect subject to refund in Docket No. G-14666.

[Docket No. G-18091 etc.]

WILLIAM HERBERT HUNT TRUST ESTATE ET AL.

Order for Hearing and Suspending Proposed Changes in Rates[1]

MARCH 20, 1959.

In the matters of William Herbert Hunt Trust Estate, Docket No. G-18091; H. L. Hunt, Docket No. G-18092; Hassie Hunt Trust, Docket No. G-18093.

On February 20, 1959, the above-named Respondents tendered for filing Notices of Change, which propose increased rates and charges in their presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes are contained in the following designated filings:

Description: Notices of change, undated.
Purchaser: Texas Eastern Transmission Corporation.
Rate schedule designation: Supplement No. 11 to William Herbert Hunt Trust Estate's FPC Gas Rate Schedule No. 2. Supplement No. 11 to H. L. Hunt's FPC Gas Rate Schedule No. 1. Supplement No. 2 to Hassie Hunt Trust's FPC Gas Rate Schedule No. 12.
Effective Date: March 23, 1959 (effective date is the first day after expiration of statutory notice).

In support of the proposed increased rates, Respondents cite either the redetermination rate provisions or the favored-nation provisions of their rate schedules. The purchaser has protested each of the proposed rate increases on the ground that it has not agreed to pay the proposed price, and denies that the same is payable under any of the provisions of the respective contracts.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

[1] This order does not provide for the consolidation for hearing of the above dockets, nor should it be so construed.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements to Respondents' FPC Gas Rate Schedules be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in the above-designated supplements to Respondents' FPC Gas Rate Schedules.

(B) Pending the hearings and decisions thereon, the above-designated supplements are each hereby suspended and the use thereof deferred until August 23, 1959, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules sought to be altered shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-2574; Filed, Mar. 26, 1959; 8:46 a.m.]

[Docket No. G-11657]

NORTHERN NATURAL GAS CO.

Notice of Date of Hearing

MARCH 23, 1959.

Take notice that pursuant to the authority conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held on April 16, 1959, at 9:30 a.m., e.d.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by the application of Northern Natural Gas Company in the above-entitled proceeding: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceeding pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

Notice of the application filed herein was published in the FEDERAL REGISTER on April 2, 1957 (22 F.R. 2194). The final date for filing protests and petitions to intervene was April 15, 1957.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-2592; Filed, Mar. 26, 1959; 8:49 a.m.]

[Docket Nos. G-15306, G-15482]

PHILLIPS PETROLEUM CO. AND EL PASO NATURAL GAS CO.

Notice of Applications and Date of Hearing

MARCH 23, 1959.

Take notice that El Paso Natural Gas Company (El Paso), a Delaware corporation with its principal place of business in El Paso, Texas, and Phillips Petroleum Company (Phillips), an independent producer of natural gas, filed separate applications for certificates of public convenience and necessity, pursuant to Section 7 of the Natural Gas Act, authorizing the construction and operation of natural gas facilities for receiving and transporting natural gas and authorizing the sale of natural gas in interstate commerce for resale, respectively, as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the respective applications, which are on file with the Commission and open to public inspection.

El Paso, in its application filed on July 11, 1958, in Docket No. G-15482, seeks authorization to construct and operate two additional 1,100 horsepower compressor units, metering facilities and appurtenances at its existing Eunice Field Plant, Lea County, New Mexico. The proposed 2,200 horsepower will be used to compress approximately 20,230 Mcf per day at 14.73 psia of low pressure casinghead gas for processing in Phillips' Eunice Gasoline Plant. The gas will be produced and purchased by Phillips from oil wells located on newly acquired leases in the South Eunice, Langlie Mattix, Jalmat and San Simon Fields, Lea County, New Mexico, gathered by Phillips and delivered to the proposed compressor facilities of El Paso. After compression by El Paso, the gas will enter Phillips' pipeline to the latter's gasoline plant. Phillips will process the gas at said gasoline plant and deliver the residue gas at the outlet thereof to El Paso, in addition to residue gas currently being purchased by El Paso at the plant. The resulting residue gas volume attributable to the new source is estimated to total approximately 17,420 Mcf per day at 14.73 psia. El Paso's existing 19,900 horsepower at its Eunice Field Plant will be adequate to compress the increased volumes to be received from Phillips' Eunice Gasoline Plant in addition to the gas currently being received from other sources and compressed for transmission to El Paso's main transmission lines.

The estimated total initial cost of the proposed facilities is $867,000, which cost will be financed from El Paso's current working funds and/or short-term bank loans as required.

On June 16, 1958, Phillips filed its application in Docket No. G-15306 for authorization covering the above-described sale of additional gas to El Paso. Such sale is to be made pursuant to an amendatory gas sales agreement dated April 18, 1958, executed by and between El Paso and Phillips, to a basic sales contract dated October 13, 1945, as amended, executed by the same two parties, which covers in part the sale of residue gas from Phillips' Eunice Gasoline Plant to El Paso.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on April 23, 1959 at 9:30 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before April 14, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-2593; Filed, Mar. 26, 1959; 8:49 a.m.]

[Docket No. G-16611 etc.]

PHILLIPS PETROLEUM CO. ET AL.

Order Fixing Date of Hearing

MARCH 23, 1959.

In the matters of Phillips Petroleum Company, operator, Docket Nos. G-16611, G-16612; Commonwealth Oil Company, Docket No. G-16679; Kerr-McGee Oil Industries, Inc., Docket Nos. G-16718, G-16719.

The parties listed below (Applicants) filed in the above-captioned proceedings as hereinafter tabulated, separate appli-

cations for certificates of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act, authorizing Applicants to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the applications which are on file with the Commission and open for public inspection.

Each Applicant proposes to sell natural gas, in interstate commerce to the purchaser shown for resale.

Docket Number and Date Filed; Applicant and Address; Source of Gas, Date of Contract, and Initial Price of Gas in Cents per Mcf at 15.025 psia; [1] *Purchaser*

G–16611, 10–20–58; Phillips Petroleum Company, operator, Bartlesville, Okla.; 50 percent interest in lease No. 1089, S/2 Block 39, Rollover Field, Offshore Vermilion Parish, La., February 6, 1953, as amended. 21.33333; [2] Commonwealth Company as successor in interest to Marine Gathering Company as of November 5, 1958.

G–16612, 10–20–58; Phillips Petroleum Company, Bartlesville, Okla.; 50 percent interest in various leases, Hog Bayou Field, Cameron Parish, Louisiana., February 6, 1953, as amended. 21.33333; Tennessee Gas Transmission Company as successor in interest to Niagara Gas Transmission Limited as of November 5, 1958.

G–16679, 10–20–58; Commonwealth Oil Company, 510 Texas National Bank Building, Houston 2, Tex.; To be purchased from Phillips as shown above in Docket No. G–16611 and from Kerr-McGee as shown below in Docket No. G–16718. February 6, 1953, as amended. 21.33333; Tennessee Gas Transmission Company as successor in interest to Niagara Gas Transmission Limited as of November 5, 1958.

G–16718, 10–21–58; Kerr-McGee Oil Industries, Inc., Kerr-McGee Building, Oklahoma City 2, Okla.; 50 percent interest in lease No. 1089, S/2 Block 39, Rollover Field, Offshore Vermilion Parish, Louisiana. February 6, 1953, as amended. 21.33333; [2] Commonwealth Oil Company as successor in interest to Marine Gathering Company as of November 5, 1958.

G–16719, 10–21–58; Kerr-McGee Oil Industries, Inc., Kerr-McGee Building, Oklahoma City 2, Okla.; 50 percent interest in various leases, Hog Bayou Field, Cameron Parish, Louisiana. February 6, 1953, as amended. 21.33333; Tennessee Gas Transmission Company successor in interest to Niagara Gas Transmission Limited as of November 5, 1958.

The Commission finds: These related matters should be heard on a consolidated record.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on April 29, 1959 at 10:00 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications.

(B) Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before April 13, 1959.

By the Commission (Commissioners Kline and Hussey dissenting).

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59–2594; Filed, Mar. 26, 1959; 8:49 a.m.]

[1] Prices shown are base prices, exclusive of the reimbursement, as shown in the gas sales contracts, as amended.

[2] Subject to a gathering charge of 2.4¢ per Mcf by purchaser.

[Project No. 2247]

NORTHERN LIGHTS, INC.

Notice of Land Withdrawal; Idaho

MARCH 24, 1959.

Conformable to the provisions of section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the lands herein described, insofar as title thereto remains in the United States are included in Power Project No. 2247 (Smith Creek Power Project) for which completed application for preliminary permit was filed June 9, 1958, by Northern Lights, Inc., of Sandpoint, Idaho. Under said section 24 these lands are, from said date of filing reserved from all forms of disposal under the laws of the United States until otherwise directed by the Commission or by Congress.

BOISE MERIDIAN

T. 65 N., R. 2 W.,
Sec. 26: NE¼NE¼, SW¼, NW¼SE¼.

The area reserved pursuant to the filing of this application is approximately 240 acres, wholly within the Kaniksu National Forest.

Copies of the project map (F.P.C. No. 2247–1) have been transmitted to the Bureau of Land Management, Forest Service and Geological Survey.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59–2595; Filed Mar. 26, 1959; 8:49 a.m.]

[Project No. 2251]

SAN JUAN FISHING AND PACKING CO.

Notice of Land Withdrawal; Alaska

MARCH 24, 1959.

Conformable to the provisions of section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the lands herein described, insofar as title thereto remains in the United States, are included in Power Project No. 2251 for which completed application for license (Major) was filed on September 29, 1958, by the San Juan Fishing and Packing Company, Pier 31 (foot of Stacy Street), P.O. Box 3086, Seattle 4, Washington. Under said section 24 these lands are, from said date of filing, reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress. The area reserved pursuant to the filing of this application is approximately 25.67 acres (portions of which were reserved earlier in Project No. 1211), wholly within the Chugach National Forest.

Evans Island, Alaska,
Prince William Sound,
Evans Bay,
U.S. Survey No. 2498,
Latitude 60°03'05" N.,
Longitude 148°04'12" W.

All lands of the United States lying within the boundaries of the project as delimited upon map designated as "Exhibit J, K & L," and entitled "Map Accompany Application of San Juan Fishing & Packing Company for Amendment to License for Water Power Project No. 1211, Alaska (From a minor to a major project on Government lands), situated, San Juan Lake on Evans Island, Prince William Sound Area, Territory of Alaska," and filed in the office of the Federal Power Commission on September 29, 1958.

This notice supersedes, in its entirety, that issued July 22, 1932, in connection with Project No. 1211.

Copies of the project map (F.P.C. 2251–1) have been transmitted to the Bureau of Land Management, Geological Survey and Forest Service.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59–2596; Filed, Mar. 26, 1959; 8:49 a.m.]

[Project No. 2257]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM

Notice of Land Withdrawal; Washington

MARCH 24, 1959.

Conformable to the provisions of section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the lands herein described, insofar as title thereto remains in the United States are included in Power Project No. 2257 (Hoh River Hydroelectric Project) for which completed application for preliminary permit was filed February 10, 1959, by the Washington Public Power Supply System of Kennewick, Washington. Under said section 24 these lands are, from said date of filing reserved from all forms of disposal under the laws of the United States until otherwise directed by the Commission or by Congress.

WILLAMETTE MERIDIAN, WASHINGTON

T. 27 N., R. 11 W.,
Sec. 27: Lots 1, 3, 4, NE¼SW¼;
Sec. 28: Lots 2, 3, 5, 6, 8, 12, SW¼NW¼;
Sec. 29: Lot 1, SE¼NE¼;
Sec. 34: Lot 3;
Sec. 36: Lots 1, 2.
T. 27 N., R. 12 W.,
Sec. 36: S½NW¼, N½SW¼, N½SE¼.

The area reserved pursuant to the filing of this application is approximately 725.80 acres, partially within the Olympic National Forest. Of this area approximately 313.50 acres have been heretofore reserved in connection with an earlier application for Project No. 1942 and Power Site Classification No. 159.

Copies of the project map (F.P.C. No. 2257–1) have been transmitted to the Bureau of Land Management, Forest Service, and Geological Survey.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59–2597; Filed, Mar. 26, 1959; 8:49 a.m.]

[Project No. 2191]

PACIFIC POWER & LIGHT CO.

Notice of Land Withdrawal; Washington

MARCH 24, 1959.

Conformable to the provisions of section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the lands hereinafter described, insofar as title thereto remains in the United States, are included in power Project No. 2191 for which application for license (Major) was filed January 28, 1959, by the Pacific Power & Light Company, Public Service Building, Portland 4, Oregon. Under said section 24 all lands of the United States lying within the boundaries of the project as delimited upon the maps filed in support thereof, are from said date of filing reserved from entry, location or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress.

WILLAMETTE MERIDIAN, WASHINGTON

T. 6 N., R. 7 E., (unsurveyed),
Sec. 1: N½N½;
Sec. 2: N½N½;
Sec. 3: N½.
T. 7 N., R. 7 E., (unsurveyed),
Sec. 12: S½S½;
Sec. 13: All;
Sec. 21: S½;
Sec. 25: E½;
Sec. 27: W½;
Sec. 28: E½;
Sec. 34: All;
Sec. 35: All;
Sec. 36: All.
T. 7 N., R. 8 E., (unsurveyed),
Sec. 7: S½S½;
Sec. 17: All;
Sec. 18: All;
Sec. 19: All;
Sec. 20: W½;
Sec. 30: All;
Sec. 31: W½.

The area reserved pursuant to the filing of this application is approximately 8,000 acres, wholly within the Gifford Pinchot National Forest. Of this area approximately 960 acres have been heretofore reserved in connection with earlier applications for Projects Nos. 264 and 2112.

Copies of the project map (F.P.C. No. 2191–8) have been transmitted to the Bureau of Land Management, Forest Service, and Geological Survey.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59–2598; Filed, Mar. 26, 1959; 8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7–1980]

BABCOCK & WILCOX CO.

Notice of Application for Unlisted Trading Privileges, and of Opportunity for Hearing

MARCH 23, 1959.

In the matter of application by the Boston Stock Exchange for unlisted trading privileges in The Babcock & Wilcox Company, capital stock; File No. 7–1980.

The above named stock exchange, pursuant to section 12(f)(2) of the Securities Exchange Act of 1934 and Rule 12f–1 promulgated thereunder, has made application for unlisted trading privileges in the specified security, which is listed and registered on the New York Stock Exchange.

Upon receipt of a request, on or before April 8, 1959, from any interested person, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D.C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59–2583; Filed, Mar. 26, 1959; 8:47 a.m.]

[File No. 70–3778]

MISSISSIPPI POWER CO.

Notice of Proposed Issuance of First Mortgage Bonds for Sinking Fund Purposes

MARCH 23, 1959.

Notice is hereby given that Mississippi Power Company ("Mississippi"), a public utility subsidiary of The Southern Company, a registered holding company, has filed with this Commission a declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder as applicable to the proposed transactions which are summarized as follows:

Mississippi proposes to issue, on or prior to June 1, 1959, $368,000 principal amount of First Mortgage Bonds, 4⅝ percent Series due 1987 and to surrender such bonds to the Trustee under an Indenture dated September 1, 1941, between Mississippi and Guaranty Trust Company of New York, as Trustee, as amended and supplemented, in accordance with the sinking fund provisions thereof. The bonds are to be identical with those authorized by the Commission on April 3, 1957 (File No. 70–3572) and are to be issued on the basis of unfunded net property additions, thus making available for construction purposes cash which would otherwise have to be used to satisfy sinking fund requirements or to purchase bonds for such purpose.

The fees and expenses to be incurred in connection with the proposal are estimated as follows: Charges of Trustee (including counsel) $450, fee of company counsel $250, and miscellaneous $250.

It is represented that the issuance of the bonds is not subject to the jurisdiction of any State or Federal commission other than this Commission.

Notice is further given that any interested person may, not later than April 6, 1959 at 5:30 p.m., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date the declaration, as filed or as amended, may be permitted to become effective as provided in Rule 23 of the rules and regulations promulgated under the Act; or the Commission may exempt such transactions as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate under the circumstances.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59–2584; Filed, Mar. 26, 1959; 8:48 a.m.]

[File No. 70–3776]

METROPOLITAN EDISON CO. AND GENERAL PUBLIC UTILITIES CORP.

Notice of Filing of Application-Declaration Regarding Proposal by Subsidiary To Issue and Sell to Parent Additional Shares of Common Stock

MARCH 20, 1959.

Notice is hereby given that General Public Utilities Corporation ("GPU"), a registered holding company, and its public-utility subsidiary, Metropolitan Edison Company ("Meted"), have filed with this Commission a joint application-declaration, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), regarding a proposal by Meted to issue and sell additional shares of its common stock to GPU. The application-

declaration specifies sections 6(b), 9(a) and 10 of the Act and Rule 50(a)(3) promulgated thereunder as applicable to the proposed transactions.

All interested persons are referred to the application-declaration on file at the office of the Commission for a statement of the transactions therein proposed, which are summarized as follows:

Meted proposes to issue and sell, from time to time, but not later than December 31, 1959, not to exceed 60,000 additional shares of its authorized but unissued no par common stock, and GPU proposes to acquire such additional shares of Meted's common stock, at a price of $100 per share, or an aggregate of $6,000,000. Assuming that the maximum of 60,000 shares are sold and the aggregate price of $6,000,000 is received, Meted proposes to apply the proceeds as follows: (a) $1,000,000 to repay a bank loan the proceeds of which were used for construction purposes prior to January 1, 1959, (b) $2,750,000 to reimburse its treasury, in part, for expenditures made for construction purposes, and (c) the balance of $2,250,000 towards its post 1958 construction program, or to reimburse its treasury for expenditures for such purpose, or to repay bank loans the proceeds of which have been used for such purpose.

The fees and expenses to be incurred by GPU in connection with the proposed transactions are estimated by the company at not to exceed $500. The fees and expenses to be incurred by Meted in connection with the proposed transactions are estimated by the company as follows:

Filing fees—Pennsylvania Public Utility Commission and Office of the Secretary of the Commonwealth of Pennsylvania	$20
Legal fees	1,500
Commonwealth of Pennsylvania capital stock excise tax	12,000
Federal original issue tax	6,000
Miscellaneous	230
Total	19,750

The application-declaration states that the Pennsylvania Public Utility Commission has jurisdiction over the proposed issue and sale of common stock by Meted, and that a copy of the order of that Commission authorizing the transactions will be supplied for the record herein by amendment to the application-declaration. It is further stated that no other State commission, and no Federal commission other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may not later than April 6, 1959, request that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request, and the issues of fact and law which he desires to controvert, or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, the Commission may grant and permit to become effective the application-declaration, as filed or as it may be amended, as provided by Rule 23 under the Act, or the Commission may grant exemption from its rules under the Act, as provided in Rules 20(a) and 100 thereof, or the Commission may take such other action as it deems appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59-2585; Filed, Mar. 26, 1959; 8:48 a.m.]

[File No. 24D-1917]

URAN MINING CORP.

Order Amending Order Temporarily Suspending Exemption and Notice of and Order for Hearing

MARCH 23, 1959.

Uran Mining Corporation (issuer), a New York corporation, 443 Powers Building, Rochester 14, New York, filed with the Commission on September 6, 1955, a notification and offering circular and subsequently filed amendments thereto relating to a proposed public offering of 58,400 shares of its 10 cents par value Class A voting common stock and 233,600 shares of its 10 cents par Class B nonvoting common stock to be offered in units consisting of one share of Class A stock and four shares of Class B stock at $5 per unit for an aggregate of $292,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof and Regulation A promulgated thereunder;

The Commission on February 12, 1959 issued an order pursuant to Rule 223 of the general rules and regulations under the Securities Act of 1933, as amended, temporarily suspending the conditional exemption under Regulation A and affording to any person having an interest therein an opportunity to request a hearing pursuant to Rule 223. A written request for hearing was received by the Commission.

The Commission, having reason to believe that there are further and additional grounds for suspension of the Regulation A exemption, hereby amends the order dated February 12, 1959 temporarily suspending the Regulation A exemption, as set forth in Items B through F below.

The Commission, deeming it necessary and appropriate to determine whether to vacate the temporary suspension order or to enter an order permanently suspending the exemption,

It is hereby ordered, That a hearing under the applicable provisions of the Securities Act of 1933, as amended, and the rules of the Commission be held on June 29, 1959, at 10:00 a.m. at the offices of the Commission, 425 Second Street, Washington, D.C. with respect to the following matters and questions without prejudice however to the specification of additional issues which may be presented at the proceedings:

A. Whether a device, scheme or artifice to defraud has been employed in connection with the sale of the issuer's securities and the offering has been made in such manner as to operate as a fraud or deceit upon the purchaser, particularly, with respect to statements that (a) a mineralized tree root had been discovered on the issuer's mining claims which held a uranium content of 0.12 percent; (b) it had been established beyond a doubt that ore above commercial grade had been uncovered in several different locations on the issuer's claims; (c) there were at least 4,000,000 tons of uranium ore in a bed just below the surface of a ridge on the issuer's properties; (d) the estimate of 4,000,000 tons of uranium had been corroborated by core drillings; (e) the issuer had 740 acres of land, showing uranium oxide from 0.10 percent to 1.72 percent; (f) a representative of a large named mining company had visited the issuer's properties and was interested in the properties; and (g) 100 tons of commercial grade ore had been stockpiled and were ready for shipment, which matters are the subject of a criminal action in the United States District Court for the Western District of New York (No. 7296-C) and injunctive proceedings in the Supreme Court of the State of New York, Monroe County, Rochester, New York.

B. Whether written and other communications were prepared or authorized by the issuer and/or its affiliates and were sent or given to more than 10 persons which communications were not filed with the Commission as required by Rule 221 of Regulation A.

C. Whether such communications contained untrue statements of material facts and omitted material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading with respect to the issuer's properties and their productivity.

D. Whether the offering circular contained untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, particularly with respect to:

1. The failure to disclose the issuer's interest, contracts, obligations and expenditures with respect to its "Wild Horse Canyon" properties;

2. The compensation and expenses paid and/or owing to the officers and directors of the issuer, and

3. The offer and sale of options by the issuer and the terms thereof.

E. Whether the initial offering of securities under the regulation was made prior to the time prescribed by Rule 218.

F. Whether securities of the issuer were offered and sold without the use of an offering circular as required by Rule 219 of Regulation A.

G. Whether the temporary suspension of the issuer's Regulation A exemption should be vacated or made permanent.

It is further ordered, That William W. Swift or any officer or officers of the Commission designated by it for that purpose shall preside at the hearing, and any officer or officers so designated to preside at any such hearing are hereby authorized to exercise all of the powers granted

to the Commission under sections 19(b), 21 and 22(c) of the Securities Act, of 1933, as amended and to hearing officers under the Commission's rules of practice.

It is further ordered, That the Secretary of the Commission shall serve a copy of this order by registered mail on Uran Mining Corporation, that notice of the entering of this order shall be given to all other persons by general release of the Commission and by publication in the FEDERAL REGISTER. Any person who desires to be heard or otherwise wishes to participate, in such hearing shall file with the Secretary of the Commission on or before June 26, 1959 a request relative thereto as provided in Rule XVII of the Commission's rules of practice.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 59-2586; Filed, Mar. 26, 1959; 8:48 a.m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

REGIONAL DIRECTOR, COMMUNITY FACILITIES ACTIVITIES, REGION II (PHILADELPHIA)

Redelegation of Authority With Respect to Public Facility Loans Program

The Regional Director, Community Facilities Activities, Region II (Philadelphia), in connection with the public facility loans program, is hereby authorized, within such Region, under section 202 of Public Law 345, 84th Congress, as amended (69 Stat. 643, as amended, 42 U.S.C. 1492):

1. To enter into contracts with public agencies for loans for essential public works or facilities in amounts approved by the Regional Administrator and, with respect to such contracts, execute amendments or modifications thereof as approved by the Regional Administrator; and

2. To enter into contracts with public agencies for loans for essential public works or facilities in amounts approved by the Community Facilities Commissioner and, with respect to such contracts, execute amendments or modifications thereof as approved by the Regional Administrator or the Community Facilities Commissioner.

(Reorg. Plan No. 3 of 1947, 61 Stat. 954; 62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U.S.C., 1952 ed. 1701c; Delegation of Authority effective June 4, 1958, 23 F.R. 3911)

Effective as of the 18th day of February 1959.

[SEAL] DAVID M. WALKER,
Regional Administrator, Region II.

[F.R. Doc. 59-2588; Filed, Mar. 26, 1959; 8:48 a.m.]

REGIONAL DIRECTOR, COMMUNITY FACILITIES ACTIVITIES, REGION II (PHILADELPHIA)

Redelegation of Authority With Respect to Program of Loans for Housing for Educational Institutions

The Regional Director, Community Facilities Activities, Region II (Philadelphia), in connection with the program of loans for housing for educational institutions, is hereby authorized, within such Region, under Title IV of the Housing Act of 1950, as amended (64 Stat. 77, as amended, 12 U.S.C. 1749-1749c):

1. To execute agreements for loans for student and/or faculty housing and/or dining facilities in amounts approved by the Regional Administrator and, with respect to such loan agreements, execute amendments or modifications thereof as approved by the Regional Administrator; and

2. To execute agreements for loans in amounts approved by the Community Facilities Commissioner and, with respect to such loan agreements, execute amendments or modifications thereof as approved by the Regional Administrator or the Community Facilities Commissioner.

(Reorg. Plan No. 3 of 1947, 61 Stat. 954; 62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U.S.C., 1952 ed. 1701c; Delegation of Authority effective June 4, 1958, 23 F.R. 3910)

Effective as of the 18th day of February 1959.

[SEAL] DAVID M. WALKER,
Regional Administrator, Region II.

[F.R. Doc. 59-2589; Filed, Mar. 26, 1959; 8:48 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

RENATE D'AGOSTINO

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Renate d'Agostino, Berlin-Charlottenburg, Germany; Claim No. 63759; $1,398.50 in the Treasury of the United States. Vesting Order No. 15838.

Executed at Washington, D.C., on March 20, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-2590; Filed, Mar. 26, 1959; 8:48 a.m.]

ANNEMARIE PROEBSTING

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Annemarie Proebsting, Pully, Switzerland; Claim No. 62315; $245,025.48 in the Treasury of the United States, and 300 shares International Nickel of Canada Ltd. N.P.V. common stock represented by certificate numbers 326577, 363222 and 363223, each for 100 shares, registered in the name of L. D. Pickering & Co. and presently in the custody of the Safekeeping Department of the Federal Reserve Bank of New York. Vesting Order No. 18351.

Executed at Washington, D.C., on March 20, 1959.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F.R. Doc. 59-2591; Filed, Mar. 26, 1959; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[Rev. S.O. 562, Taylor's I.C.C. Order 81, Amdt. 6]

NEW YORK, ONTARIO AND WESTERN RAILROAD CO.

Rerouting and Diversion of Traffic

Upon further consideration of Taylor's I.C.C. Order No. 81 and good cause appearing therefor: *It is ordered,* That:

Taylor's I.C.C. Order No. 81 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) Expiration date: This order shall expire at 11:59 p.m., September 30, 1959, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this amendment shall become effective at 11:59 p.m., March 31, 1959, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement, and by filing it with the Director, Federal Register Division.

Issued at Washington, D.C., March 20, 1959.

INTERSTATE COMMERCE COMMISSION
CHARLES W. TAYLOR,
Agent.

[F.R. Doc. 59-2541; Filed, Mar. 26, 1959; 8:45 a.m.]

[Notice 100]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 24, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC 61902. By order of March 12, 1959, the Transfer Board approved the transfer to Thrun Truck Lines, Inc., Duluth, Minn., of Certificates in Nos. MC 81824, MC 81824 Sub 6, and MC 81824 Sub 7, issued April 7, 1947, December 12, 1952, and April 30, 1953, respectively, to Harvey A. Thrun, doing business as Thrun Truck Line, Duluth, Minn., authorizing the transportation of: *General Commodities,* except Household goods, commodities in bulk, and the other usual exceptions, between specified points in Minnesota and Wisconsin. Chester B. Burton, 412 Alworth Building, Duluth 2, Minnesota, for applicants.

No. MC–FC 61922. By order of March 11, 1959, the Transfer Board approved the transfer to Charles D. Coe, Cedar Vale, Kansas, of the operating rights of T. Fred Archer, Cedar Vale, Kansas, in Certificate No. MC 109232, issued October 11, 1948, authorizing the transportation of livestock, hay, feed, seed, grain, fertilizer, building materials, farm machinery and parts thereof, and agricultural implements and parts thereof, over irregular routes, between Cedar Vale, Kans., and points in Kansas and Oklahoma within 25 miles thereof, except Sedan, Kans., on the one hand, and, on the other, St. Joseph, Kansas City, North Kansas City, Springfield, and Joplin, Mo., Kansas City, Kans., and Oklahoma City, Okla., and points in Oklahoma within 75 miles of Cedar Vale, Kans. John M. Wall, Sedan, Kans., for applicants.

No. MC–FC 61959. By order of March 12, 1959, the Transfer Board approved and authorized the transfer to William F. Juergens, doing business as Juergens Transport Service, Petersburg, Illinois, of a portion of certificate in No. MC 107662 Sub 1 issued August 29, 1957, to O. L. Bemis, doing business as Bemis Transport Service, Mt. Sterling, Illinois, authorizing the transportation of specific commodities from and to specified points in Ohio, Illinois, Iowa, Wisconsin, Indiana, and Missouri. Grover Hoff, 208 East Adams Street, Springfield, Illinois.

No. MC–FC 61960. By order of March 12, 1959, the Transfer Board approved and authorized the transfer to Nelson Transport, Inc., Des Moines, Iowa, of a remaining portion of certificate in No. MC 107662 Sub 1 issued August 29, 1959, to O. L. Bemis, doing business as Bemis Transport Service, Mt. Sterling, Illinois, authorizing the transportation, over irregular routes, of tractors and tractor parts, from Charles City, Iowa, to St. Louis, Mo., and points in a specified area in Illinois, and farm machinery, and parts thereof, from Racine, Wisconsin, and Burlington, Iowa, to points in DeWitt, Logan, Macon, and Sangamon Counties, Illinois. Grover Hoff, 208 East Adams Street, Springfield, Ill.

No. MC–FC 61966. By order of March 12, 1959, the Transfer Board approved the transfer to Orza Trucking Corp., New York, N.Y., of Permit No. MC 82211, issued May 31, 1957, to Vincenzo Frank Orza, doing business as Orza Trucking Company, New York, N.Y., authorizing the transportation of: Groceries, from New York, N.Y., to Philadelphia, Pa., Lakewood, and Atlantic City, N.J., Springfield, Mass., Manchester and points within a specified territory in Connecticut. William D. Traub, 10 East 40th Street, New York 16, N.Y., for applicants.

No. MC–FC 61967. By order of March 11, 1959, the Transfer Board approved the transfer to Fuqua Bus Lines, Inc., Owensboro, Ky., of Certificate No. MC 88293 Sub 5 issued April 1, 1948, in the name of Luther William Fuqua doing business as William Fuqua Bus Line, Owensboro, Ky., authorizing the transportation of passengers and their baggage, and express, mail, and newspapers in the same vehicle with passengers, over regular routes, between Indianapolis, Ind., and Owensboro, Ky. L. W. Fuqua, 3011 Frederica Street, Owensboro, Ky., for applicants.

No. MC–FC 61993. By order of March 4, 1959, the Transfer Board approved the transfer to Worcester Bus Co., Inc., Worcester, Mass., of Certificates Nos. MC 102676 and MC 102676 Sub 4, issued March 2, 1955 and February 26, 1959, respectively, in the name of Central Coach, Inc., Worcester, Mass., authorizing the transportation of passengers and their baggage, over regular route, in special operations, in round-trip service, during the season extending from the 1st day of May to the 30th day of September, inclusive, of each year, beginning and ending at Worcester, Mass., and extending to Hampton Beach, N.H.; passengers, in round-trip special operations, over irregular routes, between Worcester, Mass., and Rockingham Park, Narragansett Park, and Lincoln Downs race tracks, situated at or near Salem, N.H., Providence, R.I., and Lincoln, R.I., respectively, during the racing seasons at such race tracks; between Worcester, Mass., on the one hand, and, on the other, Narragansett Park race track at Pawtucket, R.I., and Rockingham Park race track at Salem, N.H.; and passengers and their baggage, over regular route, between Worcester, Mass., and Burrillville, R.I., serving all intermediate points. Arthur A. Wentzell, 539 Hartford Pike, Shrewsbury, Mass., for applicants.

No. MC–FC 62013. By order of March 12, 1959, the Transfer Board approved the transfer to P & D Lumber Handling Co., a corporation, Phoenixville, Pa., of a portion of Certificate No. MC 108407 issued February 16, 1955 in the name of Harry Ruthig, doing business as Harry Ruthig Transportation Co., Vineland, N.J., authorizing the transportation of lumber and lumber mill products, over irregular routes, from Philadelphia, Pa., and Camden, N.J., to New York, N.Y., points in Delaware and New Jersey, and those in that part of Pennsylvania within 30 miles of Philadelphia; and from Wilmington, Del., to Philadelphia, Pa. Jacob Polin, P.O. Box 317, Bala-Cynwyd, Pa.

No. MC–FC 62030. By order of March 11, 1959, the Transfer Board approved the transfer to Roy Thonen, Whiting, Kansas, of the operating rights in Certificate No. MC 39029, issued November 8, 1941, to Fred Thonen, doing business as Whiting Motor Company, Whiting, Kansas, authorizing the transportation, over regular routes, of livestock, feed, agricultural implements and parts, machinery, sugar, canned goods, cereals, and tires, between Whiting, Kans., and St. Joseph, Mo., and of livestock, feed, agricultural implements and parts, machinery, and tires, between Whiting, Kans., and Kansas City, Mo.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 59–2569; Filed, Mar. 26, 1959; 8:45 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

MARCH 24, 1959.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 35313: *Paper and paper boxes from, to, and between Southwestern points.* Filed by Southwestern Freight Bureau, Agent (No. B–7513), for interested rail carriers. Rates on boxes, fibreboard, pulpboard or strawboard, corrugated, carloads, and paper, pulpboard or fibreboard, noibn, corrugated or indented, carloads, as more fully described in the application from, to and between points in southwestern territory, as described in the application.

Grounds for relief: Short-line distance formulas and grouping.

Tariffs: Supplement 110 to Southwestern Lines Freight Bureau tariff I.C.C. 4198 and three other schedules as outlined in the application.

FSA No. 35314: *Coal—Illinois, Indiana, and western Kentucky mines to Wisconsin points.* Filed by Illinois Freight Association, Agent (No. 47), for interested rail carriers. Rates on bituminous fine coal, carloads, as described in the application from mines in Illinois,

Indiana, and western Kentucky, named or described in the application to Bangor, Medary, Rockland, Sparta, and West Salem, Wis.

Grounds for relief: Rail-barge-truck to Sparta and commercial competition to the other named destinations.

Tariffs: Supplement 22 to Illinois Freight Association tariff I.C.C. 898 and other schedules as outlined in the application.

FSA No. 35315: *Aluminum sulphate from, to, and between points in southwestern territory.* Filed by Southwestern Freight Bureau, Agent (No. B–7510), for interested rail carriers. Rates on aluminum sulphate, or papermakers' alum, dry, carloads between points in southwestern territory and between points in that territory, on the one hand, and points in adjacent territories, on the other.

Grounds for relief: Short-line distance formulas and grouping, and truck competition.

Tariffs: Supplement 38 to Southwestern Freight Bureau tariff I.C.C. 4299 and two other schedules.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59–2568; Filed, Mar. 26, 1959; 8:45 a.m.]

CUMULATIVE CODIFICATION GUIDE—MARCH

A numerical list of the parts of the Code of Federal Regulations affected by documents published to date during March. Proposed rules, as opposed to final actions, are identified as such.